

WHEN DOES AN AUTOCRAT COMPROMISE WITH SOCIAL FORCES?  
THE POLITICAL ECONOMY OF LABOR POLICY REFORM IN CHINA,  
1978-2009

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Chia-chen Chou

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Chia-chen Chou, Ph. D.

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Why, despite no formal representation of the working class in the government, do authoritarian regimes expand labor rights to more workers? After the successful liberalization of its socialist system, the Chinese government began to regulate the labor condition through expanding labor contracting practices from the state to the non-state sector in the 2000s. Challenging the threat of revolution and regime transition argument, this dissertation examines the internal politics within the Chinese state and the dynamics of how Chinese labor officials make use of workers' grievances to secure and enhance their bureaucratic power by introducing rigid labor rules. First, tracing the processes of the reform, I find that the expansion of labor rights to non-state workers is a direct result of the desire of two Chinese bureaucracies, namely the Ministry of Labor and Social Security and the All China Federation of Trade Unions, to take the opportunity to regain their power that has been relinquished under marketization since the 1980s. This incentive drives these bureaucracies to be a "representative" for workers' interest. Second, employing a diverse-case-selection strategy, I examine three provincial-level regions, namely Beijing, Hunan and Guangdong, and find that local officials' various concerns about their bureaucratic and political power have led to different patterns of regional labor regulatory regimes. Third, based on the three case studies, I generate two hypotheses and include a

statistical analysis of the labor policy-making of the 31 Chinese provincial-level regions from 2001-2008. The study explores the influence of labor officials' career prospects on the regional efforts to implement the practice of labor contracting. I conclude that China's promotion of labor rights in the 2000s is mainly motivated by labor officials' self-interests about their bureaucratic and political power. Societal actors have not yet enjoyed systemic influence in China's labor policy-making.

## BIOGRAPHICAL SKETCH

Chia-chen Chou received her bachelor's and master's degree in political science at National Taiwan University. She came to Cornell University for her doctoral program, where she focused on the study of comparative politics (political economy of reform, comparative authoritarianism, labor policy, Chinese politics), and international relations (international norms, international organizations).

This dissertation is dedicated to my parents.

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## TABLE OF CONTENTS

List of Figures	xi
List of Tables	xii
List of Abbreviations	xiii
1. Introduction:	
The Promotion of Social Rights in Authoritarian Regimes	1
1.1 Regime Stability and Redistributive Politics	7
1.2 Societal Group Approach to Policy Reform	15
1.3 State-centric Approach	22
1.4 Towards a New Approach to China's Labor Policy-making: The Socio-bureaucratic Synergy	29
1.5 Central-local Relations and Local Socio-bureaucratic Synergy in the Reform Process	38
1.6 Outline of the Dissertation	46
2. The Introduction of the Labor Contract System in the State Sector:	
The Experimentalist Style of Policy-making	50
2.1 Central Policy Definition: The Genesis of a National Plan	51
2.2 Top-down Policy Experimentation through Selecting Local Test Sites	55
2.3 Local Implementation of the Labor Contract System	60
2.4 Conclusion	67
3. The Expansion of the Labor Contract System to the Non-state Sector:	
A Positive and Negative Case Analysis	69
3.1 Background of Regulating the Non-state Sector	71
3.2 Steps for Regulating the Non-state Sector	81
3.2.1 Organizing Trade Unions in the Non-state Sector	84
3.2.2 The Making of the Labor Contract Law	86
3.2.3 Protecting Insiders or Outsiders?	94
3.3 Positive Case: Social Voices Who Win:	
Socio-bureaucratic Synergy and Inside Workers	105
3.3.1 The Ministry of Labor and Society Security	106
3.3.2 The All China Federation of Trade Unions	113
3.4 Negative Case: Social Voices Who Lose:	
The Weak Political Leverage of Non-state Enterprises	123
3.4.1 SAIC and NDRC	126
3.4.2 The All China Federation of Industry and Commerce	129
3.5 Conclusion	138

4. The Implementation of the Labor Contract System at the Provincial Level: Case Studies on Beijing, Hunan, and Guangdong	140
4.1 Patterns of Labor Policy-making at the Provincial Level	142
4.1.1 Rigid Labor Market Regulations in Beijing	151
4.1.2 Restructuring Provincial Bureaucracies in Hunan	156
4.1.3 Weak Labor Regulatory Regime in Guangdong	162
4.2 Social Grievances in the Provincial Labor Policy-making Processes	167
4.2.1 Workers' Grievances at the Provincial Level	169
4.2.2 Resistance of the Business Community at the Provincial Level	171
4.3 Political and Bureaucratic Incentives behind the Provincial Labor Policy-making	174
4.3.1 Provincial regulations as a signal to the central government	179
4.3.2 Bureaucratic restructuring as a measure for enhancing power within the province	182
4.3.3 Flexible labor regulatory regime as a result of the low chance of political promotion	186
4.3.4 Provincial leaders' intervention as a signal to the central leader	190
4.4 Conclusion	192
5. Career Prospects and Socio-bureaucratic Synergy: The Regulation of the Labor Market in Thirty-one Provincial-level Regions	194
5.1 The Regulation of the Labor Market in China's Thirty-one Provincial-level Regions	195
5.2 Career Prospects of Labor Officials	203
5.3 Modeling Regional Behavior: The Impact of Career Prospect on Labor Policy Implementation	207
5.4 Conclusion	223
6. Conclusion	225
Appendices	236
Appendix 4.1 Administrative Rank of the People's Republic of China	236
Appendix 4.2 Issues for Measuring the Rigidity of Provincial Regulations on Labor Contracts	237
Appendix 4.3 Rigidity of Regulations on Labor Contracts, 31 Provincial-level Regions	238
Appendix 4.4 GDP of BJ, HN, and GD, 1978-2009.	239
Appendix 4.5 GDP per Capita of BJ, HN, and GD, 1978-2008.	240

Appendix 4.6 Differences among Provincial-level Regulations on Labor Contracts	241
Appendix 4.7 Differences among Provincial-level Regulations on Trade Union	242
Appendix 4.8 Provincial Small Leading Groups (SLG) of Labor Contracting	243
Appendix 4.9 The Labor Contract Signing Rates in Beijing, Hunan, and Guangdong, 2000-2005	244
Appendix 4.10 Capital-labor Ratio for Chinese industries, 2006	245
Appendix 5.1 Provincial Performance Indicators of Promoting Individual Labor Contracting in Yearbooks, 2001-2008.	246
Appendix 5.2 Synchronized Index of Promoting Individual Labor Contracting	247
Appendix 5.3 Provincial Performance Indicators of Promoting Collective Labor Contracting in Yearbooks, 2001-2008.	248
Reference	249

## LIST OF FIGURES

Figure 1.1 Ranking of China's Labor Regulation Flexibility - Compared to selected Economies	4
Figure 2.1 The Percentage Ratio of Contract Workers to Total Employees in China, 1983-1997	59
Figure 2.2 The Percentage Ratio of SOE Contract Workers to Total Workers in Beijing and Hunan, 1992-1997	64
Figure 3.1 Urban Employment, by Enterprise Ownership, 1995-2008	75
Figure 3.2 The Number of Labor Dispute Cases Accepted by the Labor Dispute Arbitration Committee, 2002-2008	78
Figure 3.3 Number of Trade Union Cadres above the Firm Level in China, 1995-2006	118
Figure 3.4 Labor Policy-making at the Central Level	120
Figure 4.1 Labor Policy-making at the Provincial Level	149
Figure 4.2 Trade Union Density in Beijing, Hunan, and Guangdong, 2002-2006	166
Figure 4.3 Leadership Structure in Beijing, Hunan, and Guangdong, from 2007 and on	174
Figure 5.1 Regional Governments' Promotion of Individual Labor Contracting, 2001-2008	201
Figure 5.2 Regional Governments' Promotion of Collective Labor Contracts, 2001-2008	202

## LIST OF TABLES

Table 1.1 Overall Rigidity of Employment Index, China and Others, 2003-2009	3
Table 2.1 Urban Job Waiting Rates,* 1978-1987	52
Table 2.2 Number of Labor Service Companies, 1980-1984	53
Table 3.1 Labor Inspection by the Ministry of Labor and Social Security	83
Table 3.2 Number of Workers by Technical Level, Unit: 10000 Persons	97
Table 3.3 Number of Workers by Professional Title, Unit: 10000 Persons	97
Table 3.4 Trade Union Membership Densities in China	116
Table 4.1 The Rigidity of Regulations on Labor Contracts, Unit: Points	147
Table 4.2 The Labor Contract Signing Rates in Beijing, Hunan, and Guangdong, 1999-2007	165
Table 4.3 Employment Structure of Beijing, Hunan, and Guangdong, 2006	171
Table 4.4 The Importance of LIIs to Beijing's, Hunan's, and Guangdong's economic growth, 2006	173
Table 5.1 Age Distribution among Provincial Labor Department Directors and Trade Union Federation Chairmen, 2001-2008	206
Table 5.2 Summary statistics of variables	214
Table 5.3 Ordered logistic model estimating the effect of Labor Department Directors' career prospects on regions' promotion of individual labor contracts	216
Table 5.4 Summary statistics of variables	218
Table 5.5 Ordered logistic regression estimating the effect of Trade Union Federation's political status on the annual promotion of the collective labor contract system	219

## LIST OF ABBREVIATIONS

ACFIC	All China Federation of Industry and Commerce
ACFTU	All China Federation of Trade Union
CCP	Chinese Communist Party
CEC	China Enterprise Confederation
CPPCC	People's Political Consultative Conference
IA	Industrial Associations
ICC	Industrial Chambers of Commerce
LCL	Labor Contract Law
LII	Labor Intensive Industry
LL	Labor Law
MOCA	Ministry of Civil Affairs
MOL	Ministry of Labor
MOLSS	Ministry of Labor and Social Security
NGO	Non-government Organization
NPC	National People's Congress
PDLSS	Provincial Department of Labor and Social Security
PFIC	Provincial Federation of Industry and Commerce
PFTU	Provincial Federation of Trade Unions
PPCC	People's Political Consultative Conference
SAIC	State Administration for Industry and Commerce
SCNPC	Standing Committee of the National People's Congress
SOE	State-owned Enterprise
TUL	Trade Union Law

## Chapter One

### Introduction:

#### The Promotion of Social Rights in Authoritarian Regimes

The new Labor Contract Law helps workers to regain their iron-rice bowls, because it provides detailed regulations on non-fixed-term labor contracts.

--Zhang Shicheng, Vice-director, the Administrative Law Office of the Standing Committee of the National People's Congress, August 2007<sup>1</sup>

Small- and media-sized enterprises should be exempted from the new Labor Contract Law.

--Wang Yijiang, Research Fellow, Center for China in the World Economy, Tsinghua University, February 2008<sup>2</sup>

In June 2007, the Labor Contract Law (*Laodong Hetong Fa*; henceforth LCL) was adopted at the tenth National People's Congress as one of the most important reforms of China's labor market regulation system. During the prior thirty years, as it had in almost each dimension of its economic life, China had gradually evolved her labor regulatory regime from the *ancien régime* of the iron rice-bowl system to one based on market-oriented principles. Starting with the labor contract system introduced in the early 1980s, the Chinese labor market has been substantially liberalized. The flexibilities allowed for hiring, setting work hours, and firing have all been significantly increased. As of 2007, however, the passage of the LCL seems to have opened a new episode of re-regulating the labor market in China. While the LCL is celebrated for its comprehensive protection of employed persons, it also gives rise

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<sup>1</sup> Sina News, August 14, 2007. <http://news.sina.com.cn/c/2007-08-14/101213659777.shtml>

<sup>2</sup> Economic Observer News, February 18, 2008. <http://home.eeo.com.cn/space/html/51/81551-380588.html>



to a variety of controversies regarding its economic impacts, ranging from increasing costs of labor for enterprises to possible rising unemployment. How did China go from deregulating the labor market to re-regulating it? After market-oriented mechanisms have been established, why was the authoritarian regime interested in drafting more rigid labor regulations in the 2000s, given that the country's economic growth has still been largely fostered by labor-intensive manufacturing industries?

In most developing countries and transition economies, labor markets remain largely unliberalized during economic reform. While the pace of China's labor market flexibilization was also gradual and slow, employment and dismissal protection in China was much more successfully reduced during its economic transition in the 1980s and 1990s. Since the 1980s, when state-owned enterprises (SOEs) were allowed to employ workers through contracting, the system of lifetime tenures had been gradually destroyed, and job security was significantly reduced in the new system. Due to this reform, China has been able to achieve a higher degree of labor market flexibility in comparison with other countries. According to the World Bank's Doing Business<sup>3</sup>, from 2003-2008, the overall employment rigidity in China remained lower than that in many other regions. As shown in Table 1.1, in 2003, the rigidity in China was indexed at 47 out of 100, a much lower value than that for Latin America and the Caribbean (61 out of 100) or Eastern Europe and Central Asia (58 out of 100).

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<sup>3</sup> The Doing Business Project measures the degree of governmental employment regulations and laws of most countries.

Table 1.1 Overall Rigidity of Employment Index, China and Others, 2003-2009

Country/Region	2003	Rank	2004	Rank	2005	Rank	2006	Rank	2007	Rank	2008	Rank	2009	Rank
China	47	6 <sup>th</sup>	30	8 <sup>th</sup>	30	7 <sup>th</sup>	24	7 <sup>th</sup>	24	7 <sup>th</sup>	27	6 <sup>th</sup>	31	2 <sup>nd</sup>
East Asia & Pacific*	45.69	7 <sup>th</sup>	33.08	7 <sup>th</sup>	26.39	8 <sup>th</sup>	22.96	8 <sup>th</sup>	19.75	8 <sup>th</sup>	19.46	8 <sup>th</sup>	15.8	8 <sup>th</sup>
Eastern Europe & Central Asia	57.64	2 <sup>nd</sup>	41.42	4 <sup>th</sup>	44.35	2 <sup>nd</sup>	40.75	2 <sup>nd</sup>	40.04	2 <sup>nd</sup>	38.11	2 <sup>nd</sup>	29.2	3 <sup>rd</sup>
Latin America & Caribbean	61.33	1 <sup>st</sup>	44	2 <sup>nd</sup>	42.24	3 <sup>rd</sup>	31.74	6 <sup>th</sup>	32.19	4 <sup>th</sup>	31.09	5 <sup>th</sup>	26.6	4 <sup>th</sup>
Middle East & North Africa	48.07	5 <sup>th</sup>	38.71	5 <sup>th</sup>	40.19	4 <sup>th</sup>	35.76	3 <sup>rd</sup>	33	3 <sup>rd</sup>	31.63	3 <sup>rd</sup>	24.5	7 <sup>th</sup>
OECD: High Income	45.27	8 <sup>th</sup>	34.36	6 <sup>th</sup>	36.09	6 <sup>th</sup>	33.26	5 <sup>th</sup>	30.79	5 <sup>th</sup>	31.42	4 <sup>th</sup>	26.4	5 <sup>th</sup>
South Asia	49.2	4 <sup>th</sup>	42.33	3 <sup>rd</sup>	38.5	5 <sup>th</sup>	34.75	4 <sup>th</sup>	27.13	6 <sup>th</sup>	26.38	7 <sup>th</sup>	26.3	6 <sup>th</sup>
Sub-Saharan Africa	52.88	3 <sup>rd</sup>	56.03	1 <sup>st</sup>	53.08	1 <sup>st</sup>	47.07	1 <sup>st</sup>	42.5	1 <sup>st</sup>	41.26	1 <sup>st</sup>	35.5	1 <sup>st</sup>

Note:

\* The data on East Asia and Pacific include those on China.

\*\* The Overall Rigidity of Employment Index is calculated by the author from a simple average of the three original indexes recoded by the Doing Business, namely the Difficulty of Hiring Index, the Rigidity of Working Hours Index, and the Difficulty of Firing Index. Index values range from 0 to 100, with higher values indicating more rigid employment regulation.

\*\*\* A Country/Region which ranks 1st means that it has the most rigid employment regulations in comparison with others, and 8th the least.

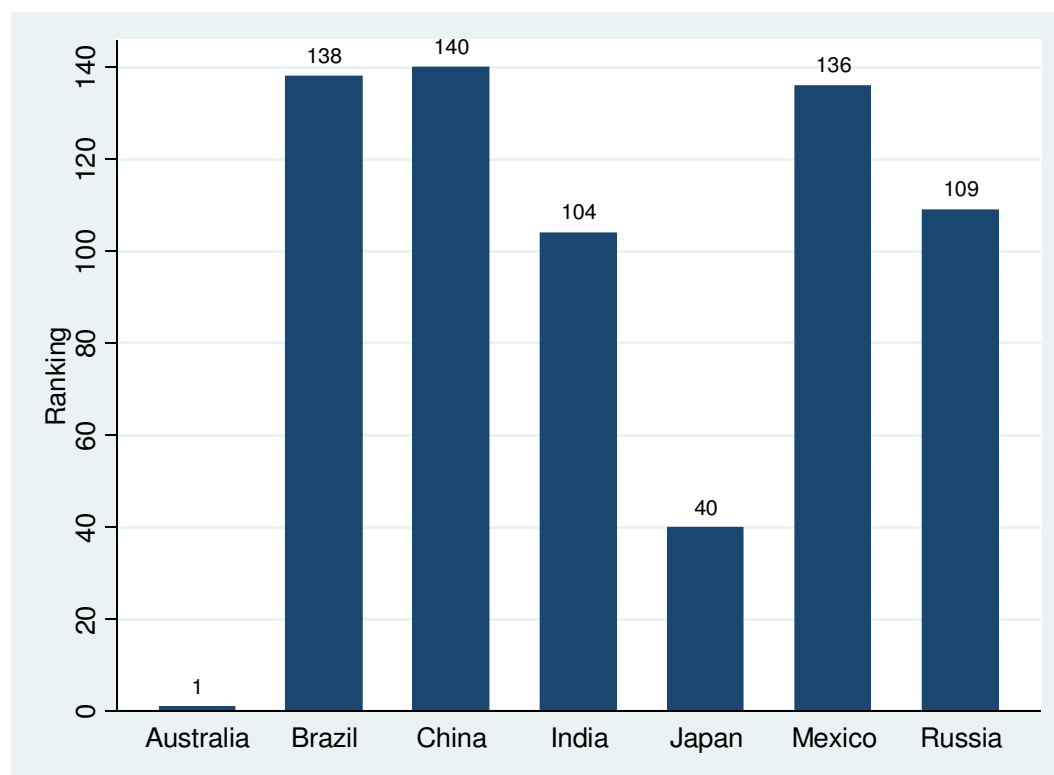
Source: Doing Business 2004-2010, and author's calculations.

China's path towards labor market flexibility was reversed recently, however.

New priority rules for group redundancy dismissals were introduced, making employment regulation more rigid (World Bank 2009, 20-21). Moreover, the government also launched several administrative programs to target the labor condition in the non-state sector, including organizing trade unions in private and foreign enterprises and expanding the labor contract system from the state to the non-state sector. This development marked China's labor market reform as a very distinctive one. The World Bank's Doing Business finds that in most developing and post-communist nations, employment regulations were largely flexibilized during the late 2000s. In 2007 and 2008, Eastern Europe and Central Asia introduced the most reforms aimed at increasing flexibility, followed by Africa and Latin America/the

Caribbean. In China, however, the rigidity has escalated since 2008. In 2009, China's labor regulation flexibility ranked 140th around the world, while in 2007, the ranking was 86th.<sup>4</sup> As Figure 1.1 illustrates, the flexibility of China's labor regulation in 2009 was lower than many other countries such as India and Russia.

Figure 1.1 Ranking of China's Labor Regulation Flexibility - Compared to selected economies



Source: Doing Business 2010 China, p.18.

Why did a country whose economic growth was widely thought of as being fostered by labor-intensive manufacturing industries have such rigid employment regulations? After successful liberalization of the socialist labor system, why did China start to more stringently regulate the labor market during the 2000s? The

<sup>4</sup> China was ranked 111<sup>th</sup> in 2008. See Doing Business 2009, p. 97 Country Tables.

aforementioned data reveal the divergent path of China's labor policy reform in comparison with other countries. The re-regulation of China's labor market during the 2000s is even more puzzling if we take into consideration the global trend of flexibilization occurring at the same time. Motivated by these questions, this dissertation seeks to identify the causes of labor policy re-regulation in China. What were the forces that motivated this change? How did they shape the path and direction of China's labor policy reform?

This dissertation focuses on the self interests of China's bureaucracies in the labor policy reform process to illustrate why the rigid regulations were successfully introduced in the 2000s. My analysis provides a subtle understanding of the internal politics within the state apparatus. I argue that, in China's labor policy-making in the 2000s, at the national level, there were two strong bureaucracies in the Chinese governing system, namely the then Ministry of Labor and Social Security (MOLSS) and the All China Federation of Trade Unions (ACFTU), acting on behalf of skilled workers to promote job security rules to regulate the labor condition in the non-state sector. The strong influence of these two bureaucracies also explains why the Chinese central government compromised more with skilled workers than with unskilled workers and the non-state business community. A negative case study of this dissertation on non-state enterprises' low political influence in the policy-making process demonstrates that their grievances were unable to stop the pro-labor policy reform because there were no competitive bureaucracies in the government wishing for the same policy outcome as these enterprises. At the same time, when it came to policy implementation at the regional level, some Chinese provinces drew more rigid

regulations to support the central pro-labor policy reform than other provinces did. To explain these variations, this dissertation also focuses on local officials' political and bureaucratic interests in the local policy-making process.

Evidence for these arguments comes primarily from my fieldwork from September 2007 to August 2008. My interviewees include managers and workers, government officials, labor law lawyers, and Chinese experts. For managers, most of them are human resources people in the manufacturing sector, the construction industry, data management companies, the metallurgy industry, information technological companies, and the service sector. These enterprises' ownership structures are either private, foreign-invested, or state-owned. Most of the workers are also from these industries. As for government officials, I interviewed low-ranked officials from several provincial federations of trade unions, municipal federations of trade unions, labor assistants and labor commissioners from local labor bureaus, officials from provincial labor departments, and Chinese experts who participated in the drafting process of the 2007 Labor Contract Law. I also consulted with research fellows in universities and the Chinese Academy of Social Sciences as well as several provincial Academies of Social Sciences. Together I conducted more than 60 interviews for this dissertation.

The following discussion is divided into six sections. I start by examining the existing approaches to the shifts in authoritarian regimes' social policies. Section One discusses the conventional wisdom that focuses on the threats of social revolution and regime transition. From its point of view, concerns about regime stability compel autocrats to appeal to the socially disadvantaged for support. The chapter then reviews

the two major theories in the political economy of policy reform literature. The first one is the societal approach which emphasizes social forces' impacts on the state. It argues that policy outcomes are directly driven by social actors. Section Three analyzes the pros and cons of the state-centric approach. I introduce my alternative explanation based on an understanding of the internal politics within the Chinese state structure in Section Four. Section Five discusses the utility of my explanation in examining the regional labor policy-making patterns. The outline of the dissertation is presented in Section Six.

### **1.1 Regime Stability and Redistributive Politics**

China's reform in the 2000s of regulating its labor market raises an important question in the study of social policy reform in authoritarian regimes. Why does an authoritarian regime act on behalf of workers to improve labor conditions, given the lack of representation of the working class in the political system? In the absence of democracy, what accounts for an autocrat's efforts in promoting labor rights? Perhaps the most common explanation is to look at autocrats' concern about the potential social threat to regime stability. In this argument, state-society relations are generally conflictual. Disenfranchised social actors lack any means to express their opinions except that they can contest power by threatening revolution (Acemoglu and Robinson 2000; Conley and Temimi 2001). In order to prevent societal grievances from turning into violent revolutions, autocrats are likely to make preferential policies beforehand to buy off potential detrimental social forces.

In the literature on democratization, redistributive conflicts between socioeconomic classes have long been argued as one of the theoretical variables that explain the outbreak of regime change. If it is the case, then we should expect autocrats to make preemptive steps to stop these potential threats. Most of the current literature analyzes autocrats' decision to compromise with social grievances as a function of their desire to avoid revolutions and mass protests. Autocrats can choose to deliver public goods policies, such as the provision of public education as a transfer from the rich to the poor (Justman and Gradstein 1999), or they can finance more social spending on the poor to satisfy the demand for more transfer from the government (Morrison 2009). In other cases, they can even introduce elections to manipulate public belief about the true popularity of the government and thereby change the calculus of revolt to the current regime (Rozenas 2009). But autocrats' commitment not to exploit the poor might not be credible. If the probability of revolution is high, autocrats will need to bestow voting rights on their citizens in order to prevent large-scale rebellions (Acemoglu and Robinson 2001). Sometimes, even if there is an absence of mass protests, new leaders will still increase public consumption due to the anticipation of riots during leadership succession. By doing so, they can reduce the insecurities happening in the succession period and draw new support from previously ignored social groups (Bunce 1980). According to these arguments, autocrats' voluntary but grudging compromises with social grievances are entirely motivated by the fear of social unrest and regime transition.

For these studies, an authoritarian regime is defined as a system where the rich elite have the political power and the poor non-elite are largely excluded. Before

introducing elections and granting voting rights to the non-elite, most autocrats will first try to make policies to redistribute wealth from the elite to the disenfranchised. This action may appease the non-elite and prevent their grievances from becoming a real threat to the dictatorship. However, non-elites in the society, being one of the major sources of instability of authoritarian regimes, are composed of different kinds of social groups. While Barrington Moore's classical statement of "no bourgeoisie, no democracy" (1966) focuses on the role of private entrepreneurs, other students of democratization emphasize that labor is always pro-democracy (Rueschemeyer, Stephens, and Stephens 1992). The argument for the importance of the bourgeoisie is echoed by modernization theory which treats democratization as an outcome of the expansion of middle class and the growth of civil society (Lipset 1960; Przeworski and Limongi 1997). Huntington's analysis on the third wave also finds that democratic movements were largely led by none other than the urban middle class (Huntington 1991, 57). Other studies, however, downplay the constructive role of bourgeoisie. Rueschemeyer et al. for example, emphasize the importance of the working class in democratization processes. This argument is supported by Collier's study which traces a gradual decline in the upper classes' involvement in democratization and a growing role of the working classes (Collier 1999). If it is debatable whether it is the working or the middle class that serves as the ultimate threat to authoritarian regimes, we should expect autocrats to draft policies that can buy off both the working as well as the middle class.

In fact, the bulk of the literature on China's political development largely draws on the threats of revolution and regime transition argument for explaining the



government's compromises with social forces, either with non-state entrepreneurs or with workers. For example, in 2001, the then president Jiang Zemin extended the membership of the Chinese Communist Party (CCP) to the owners of private businesses. This inclusion was widely thought of as the government's intention to conciliate private entrepreneurs (Dickson 2007). On the other hand, to buy off the working class and the poor in general, the political slogan of building a “harmonious society” was introduced by the current Hu-Wen regime to respond to increasing social disorder in the 2000s. According to these arguments, Chinese autocrats' concerns about potential social threats and regime transition seems to explain when the government will make policies to promote social rights.

Based on this logic, a quick answer to the question of why the Chinese government announced rigid employment regulations in the 2000s to improve labor conditions might be that these policies were passed by the top leaders to quell potential social unrest and to stabilize the regime, because these government regulations could signal that the top leaders cared about the socially disadvantaged. For example, many scholars regard the promulgation of the 2007 LCL as a reaction to industrial unrest (Wang et al. 2009), or as a response to the growing complexity of labor relations that occurred during the 2000s (Cooney et al. 2007). Gallagher and Dong also argue that the social contexts of the 2000s, such as abusive working conditions, low degrees of employment security, and escalating labor disputes, generated new concerns for the Hu-Wen regime that ultimately gave a new impetus to the making of the 2007 LCL (2009, 3). Threats of social unrest compelled the new leaders to commit to social equality and justice beyond mere economic growth.

None of these arguments, however, give adequate explanations of autocrats' behavior. An autocrat might initiate redistributive policies to buy off the poor, but if the redistribution involves actions that move assets from non-state businessmen to workers, the argument based on autocrats' concern about social unrest and regime transition itself can hardly be satisfactory. Why do autocrats choose to favor the working class and why are they not worried about the attack from the non-state business community? In reality, policies involving redistribution between non-state businessmen and workers are not rare. More social spending, for example, usually implies that the working class will receive what has been taxed from people whose income level are higher, including the business community. Therefore, theoretically speaking, autocrats' concern about regime transition itself cannot determine why a redistributive policy that compromises more with workers than with businessmen is chosen by autocrats.

China's regulation of the labor condition in the non-state sector in the 2000s was exactly this kind of policy that significantly involved asset redistribution from non-state businessmen to the working class. The new reform establishing a more stringent labor contract system in the non-state sector benefited the working class because it provided them with more tools to fight against the abusive labor conditions in their enterprises. At the same time, deprived of the advantage taken from the slack labor market regulations on how to make contracts with non-state workers, non-state businessmen were the direct loser of the new rigid labor regulation. For them, the reform significantly increased their labor cost. To mitigate the impact on these enterprises, some labor economists asked the government to exempt non-state small

enterprises from the obligation to obey the newly-made LCL, as the quotation from Wang Yijiang cited in the beginning of the Chapter indicates. These pro-business voices were unsuccessful, however. Why did the Chinese government choose to favor the working class? Did this mean that they perceived the threat from workers to be more serious than that from non-state businessmen?

In fact, unlike in democracies where regular elections provide the opportunity for a politician to test how secure his or her seat is, a policy-maker in an authoritarian regime faces difficulties defining how much support he really has among either the general population or the small subordinate groups which have the power to depose him (Wintrobe 1998, 37; Wintrobe 2001). Based on this logic, the Chinese authoritarian government actually lacked real mechanisms to determine which social groups posed the most serious threat to the regime although it can somehow gather pieces of information through media or its police stations (*paichusuo*) under the public security system. Moreover, the Olson-type explanation that a social group can be more influential when it is more organized is not suitable for determining Chinese autocrats' calculations about regime stability, because in China, there are very few, if any, large and organized social groups having the ability to challenge the government. If the government basically has no information *ex ante* to determine which social group's potential unrest will be more serious, then the argument based on autocrats' concern about regime survival is inadequate as an explanation of the redistributive policies favoring the working class and harming the non-state business community as those adopted in the 2000s.

In addition to the uncertainties about which social group will cause a fatal damage to the regime, the Chinese government actually do not have high concerns about its ability to stay in office. Neither non-state workers nor businessmen are interested in regime changes. Nor do they have much opportunity to solve the collective action problem to pose credible and widespread threats to the regime. As many researchers have found, most Chinese non-state businessmen do not have interests in democratization (Tsai 2007, 17). On the other hand, for the working class, the intensive intra-competition within them for jobs substantially erodes their collective identity (Gallagher 2002). Most labor protests in China today are all cellular, lacking a larger regional base of organization (C. Lee 2007). In fact, one of my interviewees in the government reported that while the slogan of “stability is of overriding importance” (*wending yadao yiqie*) was still being emphasized, “we do not see the society becoming any more unstable than before. It is certainly not more unstable than those years in the late 1990s when large amount of SOE workers were laid off.”<sup>5</sup> The various individual grievances found in the Chinese society might be serious, but the mere existence of these disputes do not amount to any real threats of social revolution to the current government. The argument focusing on the role of potential unrest in shaping the policy-making in authoritarian regimes has the essential shortcoming of conflating social disputes and their ability to threaten the regime on a national level. In China, social grievances and labor disputes may be found everywhere, and some of them are even high-profile, but very few of them have involved organized social groups effectively challenging the regime.

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<sup>5</sup> Informant 35. Interview conducted in Changsha, Hunan on May 20, 2008.

These shortcomings reveal that the threat of regime change argument *itself* cannot adequately explain why and how Chinese autocrats compromised more with workers than with businessmen in its labor policy-making in the 2000s. Some studies have shown that autocrats' voluntary improvement of social rights is not necessarily accompanied by serious and effective social threats. In their study on the peaceful expansion of franchise in nineteenth century Great Britain, Lizzeri and Persico (2004) directly argue that concerns about revolution did not complete the story of why political rights were given to more citizens. For them, the reform was actually caused by some elites' intention to make use of the franchise expansion to reduce pork-barrel politics and to increase public goods provision. In their study, the possibility of social revolution itself was not so serious to have persuaded the elites to expand political rights. Rather, there were other considerations of the elites in the governments that drove the autocrats to make pro-social group policies, even if social voices themselves were in fact left out in the policy-making process.

Accordingly, in addition to the intention to quell potential unrest, autocrats may have other goals to achieve when they speak for social actors. As this dissertation will illustrate, China's regulation of the non-state sector in the 2000s also reveals that some political elites in the government had other purposes to fulfill when making the rigid labor market regulation. While regime survival was still the priority, Chinese autocrats' concern about social unrest itself is not adequate to explain why the government launched redistributive actions to move assets from non-state businessmen to workers in an era where neither of them had avid interests and abilities in forming collective actions against the state.

## **1.2 Societal Group Approach to Policy Reform**

Similar to the threat of revolution and regime transition argument, the second approach of social policy-making in authoritarian regimes also focuses on non-elites' influence on the government. But this approach does not treat the announcement of pro-social voice policies as an outcome of autocrats' preemptive action to stabilize the regime. Rather, it argues that social policy outcomes are directly shaped by societal actors' inputs in the policy-making processes. For this approach, not only the policy content reflects what these actors ask for, but the trajectory of policy changes is also determined by social groups. From this perspective, the state itself does not have an agency. This dissertation calls this loose body of research “societal group approach”.

This approach is a preeminent explanation for developing countries' political economy of policy reform. Many scholars argue that policy reform (or the non-implementation of reform) is the outcome of the pressure of a coalition of societal special interest groups on the government (Olson 1984; Bates 1983). Drawing on the economic stabilizing reforms in Latin America, many studies find that, because reform usually has short-term costs feeding long-term benefits, namely the J-curve, if a state or a political institution has no ability to defuse the intensive resistance from the short-term losers in society, socially beneficial policies will usually be delayed, or not at all implemented (Laban and Sturzenegger 1994; Fernandez and Rodrik 1991).

In China, as mentioned in the previous section, societal actors do not have the systemic ability to direct China's decision-making with organized activism. While it is

essentially difficult to employ the societal group approach to explain China's policy-making, one can hardly say that after thirty years of economic reform, the Chinese government is still completely isolated from societal influences. As students of contentious politics in China indicate, powerless citizens can open up the clogged channels of participation through mobilizing small-scale contentious collective actions. For example, SOE laid-off workers have organized many protests to fight for their rights concerning subsistence issues and pension payments (Hurst 2004; Hurst 2009; Hurst and O'Brien 2002; C. Lee 2000; C. Lee 2002; Solinger 2000). In today's China, social actors, including organized civil society groups as well as unorganized individuals, have entered the policy-making and made the political process more pluralized (Mertha 2009).

As far as organized groups is concerned, scholars notice that the role of domestic non-government organizations (NGOs) and international organizations (IOs) has substantially been strengthened in China. For example, Teets (2009) finds that in dealing with some crises such as the 2009 Wenchuan earthquake in Sichuan Province, civil society groups have taken the opportunity to increase their capacity through the participation in relief efforts. In promoting labor rights, many IOs, such as the International Labor Organization (ILO) and the World Bank (WB), have played an important part in offering ideas to China's social and labor policy reforms. While international organizations have much less leverage in China than in other developing countries, their advice still matters a great deal especially in designing detailed program schemes after a policy direction is set up by the Chinese government. The ILO's expertise on re-employment has substantially shaped China's active labor market

policies. And, the transfer of industry-based pension funds over to provincial administrations in 1997 was under the guidance of the WB's recommendation of establishing a three-pillar unified pension system (World Bank 1997).

In addition to organized civil society groups, individual activists without any support from social organizations have also proven to be quite powerful. The legal consciousness among Chinese citizens have significantly enhanced in the 2000s. Many individuals have become warriors for their own rights. Without making her protest a collective strike, the homeowner of a “nail house” (*dingzi hu*) in Chongqing Municipality held out for three years to battle against the insufficient compensation from real estate developers. In other cases, individual requests can open the government's eyes to social injustices and hence is likely to lead to policy changes. For example, wage arrears were noticed by the central government when a female migrant worker Xong Deming reported to Premier Wen Jiabao on his way to visit Chongqing Municipality in 2003 that her wage was withheld by her foreman of a construction company in Yunyang County. The news was widely broadcast and the worker finally received her wage of RMB 2,240. Soon after that, a national campaign of helping workers to demand defaulted salaries was launched. In November 2003, the State Council issued the “Notice of Solving the Problem of Wages Arrears in the Construction Sector”. This illustrates that unorganized individual protests can sometimes be very effective in drawing the government's attention for possible policy changes.

However, not all social forces are influential in shaping policy outcomes in China. There are some conditions that a social voice needs to fulfill in order to have a



say in the policy-making process. In his study on China's hydro-power policy, Mertha (2008) finds that whether a social voice can determine the policy direction depends on the way in which policy entrepreneurs frame the issue at hand. Successful policy entrepreneurs can expand the political sphere of conflict and mobilize public opinions to generate a broad support (Ibid., 16). When fighting against the dam project in Dujiangyan in Sichuan Province, the discourse focusing on the argument that the dam will endanger China's national cultural heritage provides the protest with a nationalist base (Ibid., 17). This kind of strategy is frequently utilized by many other civil demands. In labor movements, even without the consciousness of a working class alliance against the state, workers' charge of "against the law" has become a powerful weapon against local officials' wrongdoings (C. Lee 2007, 261). The use of the central government's rhetoric and commitments successfully enables some protests to have a say in altering the government's decision because they are rightful resistance (O'Brien 1996; O'Brien and Li 2006).

Perhaps the most important channel to attract broader support is to have the media shift its tone to uphold the social requests. Media coverage can substantially increase the possibility of unplanned events, including shocks or disturbances to the status quo, to be institutionalized to foster substantial policy changes (Mertha and Lowry). Indeed, among the aforementioned cases, media always played a significant role in empowering the underprivileged. As Chan points out, press exposure can often lead to an improvement of local labor conditions (Chan 2001). The involvement of media is also critical to push for the government's reaction to natural or social disasters. When a serious coal mine accident happened in Shanxi Province in early 2007, many

newspapers reported that the death toll was concealed by the employers. The widespread media coverage of the incident led to the drafters of the 2007 LCL to add a new clause to require employers to construct worker recruitment lists when employment relations are established. In addition, regarding the reform of the household registration system, Chinese media's reports on the death of Sun Zhigang in a detention center in Guangzhou Municipality (Guangdong Province) in March 2003 and many other similar cases had a great impact on the government's decision to abolish the "Measure for Custody and Repatriation of Urban Vagrants and Beggars" that had been effective since 1982.

However, media censorship is still in place in China. The Chinese government generally has no major problem in sweeping away issues that are considered sensitive to the regime. The giant search engine Google has to compromise with the Chinese government to block some websites from showing up in the Chinese territory. This implies that the Chinese government might have something to do with why a certain issue is broadcast in the Chinese media while others aren't. Some studies find that autocrats can deliberately allow a certain degree of media freedom to serve a particular purpose of the government. For example, H. Huang (2007) argues that media can help autocrats to show off their competence in generating economic growth. It can also facilitate the central government's intention to monitor local bureaucrats (Egorov et al 2007). Based on this logic, when a social grievance is widely reported by the Chinese media, it probably implies that the channel is selectively opened to the issue and the government might already has a preference to change the status quo.

Regarding labor issues, media coverage of workers' complaints about the unregulated labor market is usually very impressive. But most of these reports do not condemn the government for lack of ability to raise the quality of governance. For most non-state workers themselves, it is their enterprises and not the Chinese government that are to blame. Unlike the protests organized by SOE workers in the 1990s which were targeted at the state's liberalization policy as the root cause of their deteriorating life conditions, most labor unrest led by non-state workers in the 2000s were aimed at correcting the wrongdoings of their enterprises and not of the state. This claim is echoed by Chinese academia. In June 2010 after a series of workers suicides in Foxconn's factories in Shenzhen (Guangdong Province), many Chinese scholars collectively blasted Foxconn and launched several petitions against the company's military management style such as scolding and beating front-line workers. These petitions were fully supported by the Chinese government. Premier Wen Jiabo publicly asked “the government and the society to treat young migrant workers as their own children”.<sup>6</sup> The government was not the target of these social criticisms.

Given that the state was not accused of causing abusive labor conditions, the Chinese government could easily retain a role in how these labor grievances were represented in the public. In fact, some media observers find that labor exploitation in foreign enterprises are more likely to be exposed by Chinese newspapers than that in domestic enterprises. A possible explanation behind this phenomenon can be purely market-driven, because for a private-funded newspaper, targeting foreign enterprises helps expand the circulation and readership, given that nationalist criticisms are very

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<sup>6</sup> Xinhua News Agency, June 16, 2010. [http://news.xinhuanet.com/politics/2010-06/16/c\\_12226523.htm](http://news.xinhuanet.com/politics/2010-06/16/c_12226523.htm)

much flavor of the mouth. But the widespread grievances against foreign enterprises have other functions. The government can, for example, use the labor controversies to bargain over trade issues. In August 2010 during the third China-Japan economic dialogue, while Japan's main agenda was to ask China to loosen the regulation with regard to exporting rare earth metals, Premier Wen Jiabao brought up the issue that the wage for Chinese workers in Japanese companies in China were too low.<sup>7</sup> This condemnation was made right after the strike at Honda in Foshan Municipality (Guangdong Province) which was reported by the Chinese media in May 2010 as the “largest strike that had ever happened at a single global company in China”.<sup>8</sup>

This reveals that the government sometimes can make use of workers' grievances for its own purposes. While in today's China, there are indeed more channels for social voices to participate in the political process, and the policy-making outcome also very often reflects social actors' demands, this does not necessarily mean that policy changes are driven by them. In many situations, the state itself already has a preference regarding whether and how the state quo should be altered, and this preference might be similar to some social voices. When the two wish for an identical policy outcome, the policy-making process is more likely to be opened. The state thus has an influence on the development of social voices. This also shows that the relationship between the state and the society in China is not always confrontational as argued in the societal group approach.

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<sup>7</sup> International Business Times, August 30, 2010.  
<http://hk.ibtimes.com/articles/1029/20100830/wenjiaboa-riqi-gongzi-daiyu.htm>

<sup>8</sup> 21CN.com, May 30, 2010. <http://auto.21cn.com/news/hangye/2010/05/30/7559782.shtml>

### **1.3 State-centric Approach**

The potential role of the state in shaping social voices is the focus of the third approach to policy-making, namely the state-centric approach. Influenced by Skocpol's pioneering work that in social revolutions, the state is an autonomous structure “with a logic and interests of its own” (1979, 27), studies of the economic policy-making in developing countries have developed a state-centric approach, and contended that the societal group approach exaggerates the power of social actors and underestimates the state's capacity in defeating their influences (Haggard 1990; Wade 1992). For them, states can employ strategies to overcome societal interest groups. For example, liberalization-minded officials can make use of compensation mechanisms to break down the social resistance against privatization (Shleifer and Treisman 2000), or they can maneuver the speed of reform to generate enough support (Roland 2000).

The most common tool for authoritarian governments to manipulate societal voices is to establish corporatist associations. Studies of state corporatism find that many states create associations that exercise monopoly rights in representing a particular social group (P. Williamson 1986). The major function of these associations is to serve as a regulatory apparatus on behalf of the state, rather than as a representative for their members. For example, corporatist trade unions in Latin America help the states to keep workers quiet for working at a low wage and to ensure stable industrial production (Collier and Collier 1991). Some argue that in China, most occupational and business associations are also part of the state's corporatist control (Unger 1996; Unger and Chan 1996). In addition to establishing associations to

supervise the potential loser of a policy reform, states can also work with specific societal groups that will be the winner of reform. Evans proposes the concept of embedded autonomy (1995) to capture the linkages between states and societies in economic development. According to East Asian experiences, a committed, coherent, and meritocratic bureaucracy successfully builds a reciprocal relationship with societal allies such as pro-reform entrepreneurial groups. Through industrial corporatist associations, these governments exchange information and coordinate policies with the business circle who is in favor of the reform.

An autonomous state with strong capacity can easily employ these tactics to put policy changes into practice. Some scholars come to the conclusion that institutions with a more concentrated authority will be beneficial to reform, because decision makers can be shielded from the pressure of short-term concentrated societal losers (Nelson 1993; Haggard and Kaufman 1992). Following this line of thought, the authoritarian Chinese government will be very powerful in carrying out the labor policy reform in the 2000s. Some researchers employ this state-centric approach and contend that the regulation of the labor condition in the non-state sector was introduced by the Chinese government to facilitate the move of its economy to a higher-wage and higher-technology future (Chen and Funke 2009; Chou and Tung 2009; Wang et al. 2009). A more rigid labor regulatory regime significantly hinders the development of labor-intensive industries and hence can speed up the economic upgrading. As Guo Jun, the deputy director of the Legal Department of the All China Federation of Trade Union, said in a press conference on May 10, 2006, “The LCL is geared toward ensuring workers' rights and enhancing the quality of the workforce

when China is advocating a new development strategy that focuses on technology and creativity.”<sup>9</sup> By introducing tougher labor standards, the Chinese government put forward the agenda that China's economic development would no longer rely on low-skilled, low-cost, and low-margin manufacturing.

There are, however, some questions left to be answered in applying this argument to China's labor policy reform. First, the state-centric approach tends to romanticize the government's determination to reform. Much of the literature assumes that decision makers are social welfare maximizers and planners who have a preference for initiating reform. But this is hardly the case in the real world. In his study on sub-Saharan Africa's failure of building state capacity to implement structural adjustment programs, van de Walle (2001) finds that post colonial political elites create a neopatrimonial order that has taken over from colonial periods for their pervasive rent-seeking purposes. In China, government officials' rent seeking behaviors are not rare either. Many studies find that, as local governments are the de facto owner of many coal mining enterprises, market entry barriers are put up to target at potential competitors from other localities (Wright 2009). In addition to local protectionism, the Chinese tradition of personal ties (*guanxi*) is also thought of as a hotbed of rent seeking (Sapio 2009). The state-centric argument does not give an explanation of the Chinese government's commitment to utilizing the labor policy reform to achieve economic upgrading.

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<sup>9</sup> China Labor Bulletin, “Disputes over New Labour Contract Law, Foreign Business Groups Threaten to Withdraw Investments,” China Labor Bulletin, June 07, 2006. <http://www.clb.org.hk/en/node/38245>

Some studies emphasize the role of apolitical technocrats in carrying out policy reforms. For example, regarding monetary and fiscal policies, arguments are made in favor of concentrating power in the hands of independent technocrats of the central bank (J. Williamson 1994). In the literature on China, students of her foreign and security policy find that the decision making has become more professionalized as experts and technocrats are allowed to play a role in the process (N. Lu 2001). Many Chinese scholars, especially those from the Chinese Academy of Social Sciences (CASS), are consultants to decision-makers (Carlson 2005). However, the inclusion of technocrats into the political process highly depends on top leaders' resolution to reform. There are no institutional arrangements to guarantee the status of professional technocrats in China's policy-making structure. The argument focusing on the role of technocrats still does not provide an answer to why top leaders open the process to technocrats.

Other studies argue that China's political elites in the reform era are themselves a group of technocrats (H. Lee 1990). The fourth generation of top leaders are no longer revolutionary veterans. Many of them are from the "Tsinghua clique", majoring in engineering at Tsinghua University, including the current president Hu Jintao (Li 2001). This study, however, provides little information about the top leaders' inclination to labor policy changes. A similar argument is also to look at the characteristics of China's current political leaders. Some emphasize that Hu and Wen are both benign authoritarian leaders and care much more about socially disadvantaged groups than former elites did. But again, this statement alone does not



tell us any information about the preference formation of the top leaders and where the reform plan emanates.

Another unanswered question of the state-centric approach is that most of the studies do not provide adequate analyses on how the politics within the state structure influences a government's policy outcome. This approach generally assumes that, when facing varieties of social pressure, the state has only one interest and will act unitedly, either having skills to overcome societal losers, and hence able to reform, or being handcuffed by the power of these groups, and hence unable to reform. It does not recognize that individual political elites in the state structure may cultivate their own relations with different social actors, and the interaction of these individual relationships may lead to different policy outcomes. While some researchers are aware of the internal bureaucratic conflicts within the government, such as Chalmers Johnson's classic study on the struggle between the Ministry of International Trade and Industry (MITI) and the Ministry of Finance in Japan's economic development (1986), their argument still centers around how the state acting as a whole exerts its influence over the society. Perhaps because the focus of this approach is on states' crafts of overcoming societal forces, it does not treat the dynamics within the state as a variable to explain policy outcomes. As van de Walle points out, the state-centric approach will encounter analytical difficulties when commitments to reform vary within the government (2001: 41).

In many countries, special interest politics within the state itself are no less intensive than those between the state and the society, and the dynamics between different political elites within the state apparatus are likely to lead to different policy

outcomes. The impact of internal politics of various and overlapping bargaining games on a government's policy has long been recognized by the literature that covers bureaucratic politics (Allison 1969; Halperin 1971). The classic model of Chinese Fragmented Authoritarianism (Lieberthal and Oksenberg 1988; Lieberthal and Lampton 1992) shows that in China, interest representation and competition happens within the government bureaucracy. Competition among different political elites within the state structure will change the path and direction of policy reforms.

Studies on institutional fragmentation in democracies also find that policy decisions do not directly reflect societal demands or the state's united interest vis-a-vis the society, but are highly influenced by how different political elites are placed in the political system. For example, Tsebelis's veto player theory argues that policy outcomes are a function of the number of veto points within a political institution (1995). For him, veto players are “individual or collective actors whose agreement is required for a change of the status quo” (Tsebelis 1995, 289-325). In the theory, the number of veto players is critical in predicting the change of status quo in a democrat regime. Excessive veto players lead to policy fragmentation and impede policy changes because each player has a leverage over the policy-making process and each preference must be taken into account. Thus, more veto players contribute to policy stability or “resoluteness” and reduce the degree of flexibility or “decisiveness” (Cox and McCubbins 2001).

This argument that the preference of each veto player needs to be taken into consideration in the decision making process echoes the viewpoint of the Fragmented Authoritarianism framework that China's fragmented government structure creates

bargaining arena where every ministry and local government can exert her influence. As Shirk points out, inter-ministerial bargaining and negotiation, namely “departmentalism”, is particularly serious in China, because China's ministerial structure was basically industry-based before the government restructuring in 1998 (1993, 98-106). At the same time, China's local governments have also gained much influence in the political system in the reform era. The allocation of authority and responsibility to local governments has an institutionalized degree of durability and can not be changed unilaterally by the central government (Montinola et al. 1995, 53-4). The rise of these new actors complicates China's decision making process, similar to the perdition of the veto player theory.

This prediction, however, has been challenged by empirical studies on the economic reform in transition countries. Hellman's study (1998) reveals that further reform is less likely to be captured by winners from earlier partial reform when other actors are also well represented in the decision making process. Gehlbach and Malesky (2007) also show that adding a new veto player in the decision making body does not necessarily make policy changes harder. Their conclusion is supported by Frye and Mansfield's work on trade liberalization (2003), which argues that fragmented political power is associated with more reform. In addition, Mertha's work on China's intellectual property rights (2006) demonstrates that inter-bureaucratic competition actually creates a policy enforcement market, and thus contributes to efficient and effective policy implementation outcomes. These studies illustrate that competition among more political actors in the decision-making process does not

necessarily block policy shifts. The impact of the internal politics between different officials on a government's policy reform requires more investigation.

In the next section, I will give an alternative explanation of China's labor policy reform in the 2000s. I propose the concept of “socio-bureaucratic synergy” to capture the bargaining and competition between various political actors in the state as well as how these elites cultivate their own relations with different social actors in the reform process. This new framework also provides an answer to the source of autocrats' determination to reform. I argue that the narrow bureaucratic interests of Chinese officials substantially determine China's labor policy reform direction. The incentive of these bureaucrats also explains why some social voices, such as non-state workers, are brought into the policy-making while others, such as non-state labor intensive manufacturers, is not influential in the process.

#### **1.4 Towards a New Approach to China's Labor Policy-making:**

##### **The Socio-bureaucratic Synergy**

The state-centric approach is helpful in revealing the strong role of the Chinese government, but a more careful examination on the politics within the state structure is needed to understand the policy reform process. On the other hand, the societal group approach informs us that China's decision making process is now more pluralized and open to the society. But whether a social voice can have a say in the policy process still highly depends on the state's attitude. To have a better framework to analyze how the different political elites in the state interact with each other and how they

incorporate social actors into the policy-making process, this dissertation proposes a new explanation based on the concept of “socio-bureaucratic synergy”. Unlike “state-society synergy” discussed by Evans (1997), socio-bureaucratic synergy does not treat the state as a unitary actor when facing social pressures. Rather, I argue that only some bureaucracies in the state, and not the state as a whole, can successfully link themselves to some societal actors and put forward these officials' desired reform agenda.

The framework of socio-bureaucratic synergy provides a different understanding from the state-centric and societal group approaches in ways of how to examine the politics within the state as well as state-society relations. First, the framework regards the interaction between Chinese bureaucracies in the state structure as the major factor of China's regulation of the non-state sector in the 2000s. Bureaucratic politics within the Chinese government provides a good example to illustrate how internal politics within states set the path for policy reforms in authoritarian regimes. As Chapter Three will demonstrate, in the 2000s, the Ministry of Labor and Social Security (MOLSS) and the All China Federation of Trade Unions (ACFTU) strongly advocated the regulation of the workforce in the non-state sector, because the new policy helped enhance the two bureaucracies' power and status in the Chinese governing structure. These two bureaucracies successfully defeated the resistance of the All China Federation of Industry and Commerce (ACFIC), who served as the major representative of non-state enterprises to fight against the rigid labor regulations. At the regional level, Labor Departments and Provincial Federations of Trade Unions also had critical impacts on how provincial governments built their

own labor regulatory regimes. My study will reveal that China's labor policy reform did not directly come from apolitical technocrats or competent top leaders equipped with high state capacity to overcome societal oppositions of the business community, or from workers' threats of revolution or demands for preferential policies, but was a result of bargaining among bureaucracies who successfully made use of the rising labor unrest to make policies for their own purposes.

To have a good grasp of the politics between Chinese bureaucracies, the dissertation precedes to examine the incentive structure of Chinese officials, particularly those related to the regulation of the non-state sector, in the labor policy reform to illustrate under what conditions these bureaucracies will support the new regulation. The major motivation for a government official to propose or to implement a policy is to use that policy to increase his bureaucratic power, or to enhance his chance of political promotion. Two types of bureaucracies, namely the central ministries and the provincial departments, are the major actors in China's national and regional labor policy-making respectively. On the one hand, their behavior is influenced by their historical status and organizational features. Bureaucracy itself can thus be regarded as a unit of analysis. On the other hand, because leaders of central ministries and provincial departments usually have huge impacts on how these bureaucracies stand in the controversies over policy directions, I will also analyze these individual leaders' incentive structures in the labor policy-making process.

As an organization, it is clear that the major concern of a bureaucracy, either at the central or regional level, is to maintain its bureaucratic power. Traditionally speaking, indicators of bureaucratic power include budget, number of personnel, and

multiplicity of administrative functions (Mertha 2006, 301). Strong bureaucratic power guarantees the status within the government. In China, ministries' budget information at the central level is not opened to the public until 2010. At the regional level, most departments in the provincial-level governments do not publicize this information either. Only a few local governments, such as Wenling City (a county-level city (*xianjishi*)) in Zhejiang Province and Baimiao Township (*xiang*) in Sichuan Province, allow the local people to participate in the budget discussion (Hsu 2010).

On the other hand, number of personnel refers to the authorized number of established posts in the Party apparatus or governmental administrative organ (*jiguan*), namely *bianzhi* in Chinese (Brødsgaard 2002). There are two kinds of *bianzhi*: Administrative posts (*xingzheng bianzhi*) and public service posts (*shiye bianzhi*). The former refers to civil service officials. Most staff in the public service unit (*shiye danwei*) belongs to the latter category. The number of personnel that a central ministry can have is officially assigned by the State Commission Office for Public Sector Reform (*zhongyang jigou bianzhi weiyuanhui*).<sup>10</sup> If a ministry receives more quota of posts, it usually means that the ministry is stronger and more important to the CCP's governance.

At the same time, a bureaucracy equipped with more administrative functions usually has more monetary resources and numbers of personnel. Multiplicity of administrative functions is thus a good indicator of a bureaucracy's power. In fact, inter-ministerial competition for more tasks is often very fierce in the central

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<sup>10</sup> The official English translation of the Office's name does not precisely express its major function. The office, led by the Premier of the State Council, is in charge of assigning the authorized number of personnel (the number of established posts) in the Party apparatus or governmental administrative organ (*jiguan*), namely *bianzhi* in Chinese.

government. For example, regarding which ministry should be in charge of China's pension and social insurances program, the Ministry of Labor and Social Security, the Ministry of Finance, and the Ministry of Civil Affairs have long engaged in battles with each other (Frazier 2010, 22). Losing this kind of game is fatal to a bureaucracy's power. As Mertha writes, “loss of an established portfolio can be devastating to a bureaucracy, demonstrating weakness, a decline in relevance, or a loss of political favor with the ruling elite”. The outcome of the battle is zero-sum and winner-take-all (2006, 306). The change of administrative functions is thus a good indicator regarding the ups and downs of a bureaucracy's status in the Chinese government.

Inter-bureaucratic competition has become even more cut-throat since China launched several rounds of government restructuring and downsizing. The most critical reform took place in 1998. In that year, the State Council had several industry-based ministries merged into a larger ministry which represented two or more industries.<sup>11</sup> Regarding the Labor Ministry, in 2008, the then Ministry of Labor and Social Security and the Ministry of Personnel were merged into a “super-ministry” (Frazier 2010, 22), namely the Ministry of Human Resources and Social Security. In the process of restructuring, when a new ministry is created, it needs to define its function (*zhineng*), internal divisions (*neishe jigou*), and number of established posts (*renyuan bianzhi*), which are summarized as three tasks (*sanding*) in Chinese. In many cases, if a ministry is already strong before the government restructuring, it will be more powerful in getting favorable quota on these three tasks, which in turn will

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<sup>11</sup> For example, the Ministry of Metallurgical Industry, the Ministry of Machinery Industry, the Ministry of Electronics Industry, the Ministry of Chemical Industry, and the Ministry of Coal Industry were transformed into different bureaus subordinate to the State Economic and Trade Commission (SETC).



strengthen its bureaucratic status. In some situations, a powerful minister can even stay out of the restructuring. For example, in the 2008 government restructuring, the Ministry of Railways successfully resisted the amalgamation into the Ministry of Transport.

The incentive to strengthen bureaucratic power shapes China's labor policy reform. As will be shown in Chapter Three, starting from the 2000s, to regain the bureaucratic power that had been relinquished under marketization, the MOLSS and the ACFTU pushed the top leaders to adopt policies to regulate the labor condition in the non-state sector in a way that particularly favored skilled workers' job security.

As for the heads of the central Labor Ministry and the Trade Union, most of them also care about the power and status of their own bureaucracies. Based on their different career paths, there are three types of political elites that have served as the heads of the Labor Ministry and the Trade Union Federation. First, some of them only stay in the lower-level track and will never become members in the top leadership group. However, they might be promoted to other professional positions such as a different ministry. Second, some have chances to be promoted to the Standing Committee of the Politburo as core top leaders. Third, others have already reached the highest level in their political careers, and hence will no longer be granted important positions after serving for the Labor Ministry or the Trade Union Federation. That being said, in some cases, these ministers and chairmen still have chances to be put in symbolic positions such as the leadership positions in the National People's Congress (NPC), even if they already reach the retirement age.

For the first type of ministers and chairmen, they can be regarded as members in the “technocrats faction” in Shih's work (2009). Their incentive is to “link promotion and jurisdictional expansion with their ability to solve pressing problems confronting the regime” (Ibid., 5). These officials' interests are closely tied to their bureaucracies, and they usually share the same policy preference as if “where you stand depends on where you sit” (Allison, 1971: 176), because good performance in a strong bureaucracy demonstrates their competence and will be helpful for their future bureaucratic career in the technocrats track. On the other hand, for the last type of officials, who will not be promoted to critical positions in the future, they will be less interested in expanding the power of their current bureaucracies because they are going to retire soon. But if they have chances to serve in symbolic positions in the future, they will be more active because a powerful bureaucracy will be helpful in bargaining for such positions after leaving the current bureaucracies.

For the second type of officials, they have promising political careers to be included in the top leadership group. Their interests might be less linked with their current bureaucracies but more with top leaders. In this sense, these officials might not be very interested in empowering the bureaucracies under their current jurisdictions, because their expectation is at the higher level and their major concern may be more related to top leaders' general governance and maintenance of social stability. Unlike ministers who are in charge of special industrial policies, in the process of regulating the labor condition in the 2000s, the policy preference of the heads of the Labor Ministry and the Trade Union Federation did not run against that of their fellow bureaucrats to empower their bureaucracies, because regulating the labor market was a

policy that was of help for enhancing the bureaucratic power as well as stabilizing labor relations at the same time.

As far as China's state-society relation is concerned, the framework of socio-bureaucratic synergy adds a new perspective to the study. Drawing on the state-centric approach, I find that the Chinese state is equipped with skills in manipulating societal voices. But unlike this approach which assumes the state as an unitary actor in the interaction with the society, my framework argues that different political elites usually explore their own connections with different social forces. More specifically, in China, the labor departments and trade union federations usually seek support from the working class, while departments of commerce and industries have closer relations with the business community. In the labor policy reform in the 2000s, the MOLSS and the ACFTU took advantage of the increasing labor unrest to put forward their desired labor regulations. At the same time, the ACFIC also acted on behalf of non-state labor-intensive industries. Therefore, different bureaucracies in the state usually have their own ties with certain social groups.

This also reveals that Chinese officials do not shy away from incorporating social grievances into their policy-making processes. Representing social voices or even mobilizing mass movements is widely used as a tool to legitimize their actions. Accordingly, the state-society relations are not always confrontational in China. As Perry points out, the way in which the Chinese state governs the current society has a root in the revolutionary period in the 1950s. In today's China, the authoritarian regime still periodically engages its citizens to express their private criticisms publicly (Perry 2007). For a top Chinese leader, mass movements serve to legitimize the entire

regime and hence are helpful in ensuring his political survival. Indeed, students of China's state-society relation have found that the Chinese autocrats tend to utilize domestic public opinions or even mass protests for their own purposes. They can deliberately give tacit consent to anti-Japanese protest to gain international leverage such as undermining Japan's bid for a permanent seat on the United Nations Security Council (Weiss). Or they can tolerate narrow economic protests in order to identify and defuse dissidents. Social protests are also useful for the central government to monitor local governments and to control local corruption (Lorentzen 2008). In addition to the top leaders, lower-level officials may also join the camp of representing social voices to fight for what these officials want. Similar to Mao's use of mass mobilization to boost up his political legitimacy, the current Chinese bureaucrats also find that it is useful to make use of social opinions to justify their actions. This makes the bureaucracies' desired policy a “rightful” one.

Therefore, bureaucracies and social forces might sometimes have the same policy preference, although for different reasons. Whether a social force can have a say in the policy-making process depends on whether there are some bureaucracies in the government thinking that it is in their interests to act on behalf of the social force in order to strengthen their own political power. Accordingly, having a well-organized structure is not the reason why social voices can wield their influences on the government. As O'Brien and Li (1999) find, local officials do not necessarily make more efforts to implement policies for which there is more mass-based demand. On the contrary, there are many cases where least popular policies are selected to be enforced. This argument echoes Gehlbach's conclusion that politicians do not

necessarily favor groups that are organized over those that are not. In his study on the tax systems in post-communist countries, Gehlbach finds that political elites are likely to be more responsive to some industries, just because these industries are easier to be taxed and thus are more politically valuable (2008). My framework of socio-bureaucratic synergy also illustrates a top-down decision making style. In China, the policy-making was not driven by how social forces seek for being represented by bureaucracies in order to be integrated into the decision making process, but by how bureaucracies take advantage of social forces to enhance their political status. When some bureaucracies wish for the same policy outcome as a social force, we can say that there is socio-bureaucratic synergy between these bureaucracies and the social actor in the policy-making process. The concept provides the answer to why the voice of the working class can be heard in the policy-making process, even when workers are not able to represent themselves in the Chinese government.

### **1.5 Central-local Relations and Local Socio-bureaucratic Synergy in the Reform Process**

Central-local relations provide another example to examine the impact of internal politics on the state's labor-policy-making. Not every Chinese province was willing to carry out the central reform in the 2000s. The implementation process was significantly influenced by the provincial governments. To construct a provincial labor regulatory regime, similar to the national process, Provincial Labor Departments and Trade Union Federations were the major actor. Top provincial leaders, including

provincial CCP secretaries and governors, also had a role in the process in the sense that they could intervene in the policy-making if they did not see eye to eye with these labor officials. As Chapter Four will illustrate, different provincial governments reacted to the central policy to promote labor rights in different ways according to their own concerns. The dissertation precedes to investigate the incentive structure of these local officials in their regional labor policy-making processes.

Studies on China's local development have long recognized local governments' economic incentive under fiscal decentralization in promoting economic growth (Oi, 1992; Montinola, Qian, Weingast 1995; Qian and Weingast, 1997). The economic interest sometimes also drives local governments to improve the quality of governance, because under fiscal decentralization, different jurisdictions need to compete with each other for more resources either from the central government or from foreign investments. As Tiebout's classic study indicates, competition among sub-national governments may lead to more efficient public goods provision (1956).

But decentralization is a double-sword for authoritarian regimes. Fiscal decentralization reduces local governments' reliance on the central government's fiscal transfer, and thus might pave the way for local protectionism and grant local governments the opportunities to distort the central government's policy principles (Ngo and Wu 2009). In addition, localities with more resources are likely to challenge the central government (Treisman, 1999; Bunce 1999). As Landry's study points out, fiscal decentralization is strongly associated with democracy, and autocrats are usually reluctant decentralizers (2008). But in China, while the fiscal capacity of the central government has become weak, the CCP still maintains a high degree of political

control through the cadre management system (Ibid). The central government can affect the probability that local officials stay in power in order to supervise their behavior. This is to say, local officials are not only motivated by their economic incentive under fiscal decentralization. The cadre management system under political centralization also significantly determines their political incentive in the process of implementing the central policy reform.

In a democratic decentralized system, local officials' political aspiration is likely to drive them to invest in policy innovation. Kotsogiannis and Schwager (2006) find that innovative policies help local leaders to signal to the electorate their capacity for serving as a federal leader. Local leaders' competition for running a successful national campaign leads them to pay attention to policy innovation to show off to citizens that they are competent candidates. In an authoritarian regime such as China, local elites do not need to attract citizens' attention to be promoted, but they are obligated to keep good relationships with the central government in order to have a better political career. Many studies have recognized the political concern of Chinese local elites in their policy-making processes. For example, Blanchard and Shleifer (2001) argues that unlike in Russia, the political interest of Chinese local officials under political centralization guarantees local economic growth and reduces the degree of local rent seeking. This provides an answer to why fiscal decentralization in China does not create as serious local predatory states as in many other developing countries. This argument is confirmed by Li and Zhou (2005), who find that a provincial leader's political turnover is sensitive to the economic performance of his province. At the same time, Y. Huang (1999) finds that China's cadre management

system forces local officials to comply with the central government's inflation-control policies that in fact run against their own economic interests. According to this view, the Chinese central government successfully uses political promotions to persuade provincial officials to cooperate on its policy principles.

Therefore, local officials' political incentive is one of the major factors to explain local policy outcome. In fact, the role of political elites in local development has been emphasized in many studies on developing countries' decentralization. As in Grindle's study on Mexico, individual leadership is the best predictor of the quality of local governance and “the most important source of change in local governments” (2007, 170). In China, individual elites' behavior is largely influenced by the central government's personnel control. In the field, studies have tried to figure out the major evaluation criteria of elites' political promotion and mobility. Some of the works focus on national or provincial-level political elites (Li and Bachman 1989; Oksenberg 1968), while recent studies have begun to use survey data to examine general bureaucratic career patterns (Walder 1995; Walder, Li, and Treiman 2000; Zhou 1995; Zhou 2001). University education and seniority among party membership have proven to be useful in increasing a cadre member's chance of promotion (Zang 1998; Li and Walder 2001). Economic performance is also found to be on the evaluation list (Whiting 2001). Among the criteria, most studies agree that political loyalty is a precondition for political promotion. There are several ways for local officials to signal their political loyalty to the central government. They can either nauseatingly display their loyalty through echoing an ideological campaign launched by the top



leaders (Shih 2008b), or, as this dissertation will argue, credibly signal to the central leaders their loyalty by complying with the central government's new reform agenda.

Cooperating with the central government on the pro-labor policy reform and acting on behalf of workers' grievances is supposed to be a credible way to demonstrate local officials' political loyalty, because labor policy reform is a costly policy, and the central government, as well as the local governments, will always incur resistance during the reform process. Having the ability to counter the resistance conceivably shows that the local government is seeing eye to eye with the central government. Moreover, labor policy is constantly a core issue on the central government's reform agenda. In the 2000s, the policy to improve labor conditions in the non-state sector is one of the crucial measures for building a "harmonious society," the new ideological campaign launched by the Hu-Wen regime, which focuses on the rhetoric of improving living conditions of the socially disadvantaged. It is thus a good example to examine the relationship between political promotion and local policy implementation in China. When promoting a more rigid labor market regulatory regime is on the central government's agenda in the 2000s, the action of a lower-level official to speak for workers' voices can serve as a credible signal to the top leaders that he is loyal to the new reform direction.

Local governments' cooperation is even more important to the central government in the sense that it enables the central government to observe local officials' competence. If the authoritarian government cares about not only regime stability but also effective governance of the country, it should not only judge a local official's political loyalty, but also his competence in achieving the central

government's policy goals when the central government means them. Surprisingly, few existing studies have analyzed whether political promotion is a function of, or sensitive to local officials' compliance with the central government's reform agenda. This dissertation argues that, in order to assure that the central policy is implemented, local officials' management of the policy implementation is included into the evaluation criteria considered as part of the political promotion process. On the other hand, for a local official who wishes to be promoted, cooperating with the central government on its reform agenda becomes a credible way to demonstrate his loyalty and competence.

The dissertation will thus proceed to examine how local officials' political incentive affects their choice to act on behalf of workers in carrying out the central pro-labor reform in the 2000s. Similar to the central counterparts, the behavior of a regional Department of Labor and Social Security (DLSS) and a Federation of Trade Unions (FTU) is also largely determined by their incentive to empower the bureaucracies in the provincial governing structure. But unlike the central politics, regional officials need to deal with the supervision of the central government while managing the power structure at the provincial level. The central government wields its influence over the regional policy-making mainly through affecting the probability that the local officials stay in power. In this regard, officials in a regional DLSS or FTU care about not only their bureaucratic status in the provincial governing structure but also how much they can get from the central government. A bureaucracy who puts more emphasis on the latter will find ways to attract the central government.

Empirical findings show that among those provinces who achieve socio-bureaucratic synergy to promote the central pro-labor reform, their implementation is crystallized in two patterns: either drawing up detailed provincial guidelines and measures to implement the central government's general policy principles, or restructuring the provincial bureaucracies and/or establishing new governmental agencies to strengthen the provincial labor-regulatory regime. The choice of one of these avenues over the other can often be explained by the different political aspirations of the heads of the DLSS and the FTU. For those who wish to take advantage of implementing the central pro-labor policy to empower the bureaucracies at the provincial level, they are inclined to choosing the second avenue to build the provincial labor regulatory regime. For those who pay more attention to the central government, they tend to follow the first pattern to enlarge their political chances to be promoted to the central level, that is, to make local regulations to signal the loyalty and competence to carry out the central policy.

This dissertation studies two types of local officials. In addition to top provincial leaders, namely Provincial Party Secretaries, who can be regarded as the generalists (Shih 2009), I include a study of the career patterns of a particular sub-level of provincial political elites, who enjoy a status called “*zheng di ting ji*,” signifying that they hold a director-level position within a provincial department. These particular bureaucrats usually falls into the “technocrats faction” (Shih 2009). In provincial policy-making processes, this level of officials who are in charge of Provincial Labor Departments and Provincial Federations of Trade Unions are frequently critical to establishing provincial labor regulatory regimes. Due to the

tradition of “departmental legislation” (*bumen lifa*),<sup>12</sup> the final version of most provincial labor regulations directly reflects the interests of these bureaucracies. While these “technocrats” have a say in shaping actual policy reforms, few of the existing studies have focused on the incentive structure of these officials. One of the contributions of this dissertation is to fill this gap.

To sum up, my dissertation argues that the pro-labor policy reform is set up and implemented by the bureaucracies within the state apparatus to take advantage of workers' grievances to promote their own bureaucratic and political interests. At the central level, the pro-labor policy-making is strongly shaped and pushed by the Labor Ministry and the Trade Union Federation. These two bureaucracies make use of their access to top leaders and successfully defeat the resistance from the All China Federation of Commerce and Industry that tends to speak for the non-state business community. At the same time, similar to the central policy-making, labor departments and trade union federations in the provincial governing system are also the critical drafters of provincial labor regulatory regimes. The bureaucratic and political concerns of these local elites explain why they choose to speak for workers in the labor policy implementation process. Accordingly, in China, self-interested bureaucracies may make use of some social voices and act on behalf of them when they see representing

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<sup>12</sup> Departmental legislation in China refers to the situation where the administrative department has taken advantage of the discretion to make enormous administrative decrees which do not need the approval of the People's Congress. These decrees include Regulations (*guiding*), Ordinances (*tiaoli*), Circulars (*tongzhi*) and Measures (*banfa*), that appear to supplement a national law, but in fact help maximize the administrative department's bureaucratic power in the law implementation process.

these voices beneficial for their own bureaucratic and political interests. When this relationship is successfully established, we say that there is socio-bureaucratic synergy.

## **1.6 Outline of the Dissertation**

The dissertation will first examine China's labor policy reform in the early transitional period before the regulation of the non-state sector in the 2000s. The next chapter traces the process of how China employed an experimentalist strategy to introduce the labor contract system in the 1980s and the 1990s to deregulate and flexibilize the SOE workforce. In this stage, local experiments were conducted to muster support for the new system. While the reform was gradual, its full implementation was facilitated by China's agenda of SOE restructuring. The pace of reform has sped up since the mid-1990s. Accordingly, the SOE workforce was successfully flexibilized.

After the deregulation of the state sector, the Chinese government launched several programs to re-regulate the labor market in the 2000s. The new reform was instituted by the expansion of the labor contract system from the state to the non-state sector. Chapter Three examines this stage of reform. Contrasting a positive case with a negative case, I demonstrate that having a bureaucracy wishing for the same policy outcome as a social voice is a prerequisite for that voice to have a say in the policy-making process. When the Ministry of Labor and Social Security and the All China Federation of Trade Unions saw regulating the workforce in the non-state sector as a way to regain their power, the social grievances of some workers, especially those of

skilled workers, could become influential in the labor policy-making process. This argument is verified by the negative case of the study, namely the resistance to the reform from non-state labor-intensive enterprises. In the policy-making process, these enterprises faced difficulties to change the direction of the pro-labor reform. The lack of strong bureaucracies representing their grievances in the government disabled them from transforming their wealth into political influence.

The central government's reform agenda needs the provinces to carry out. The focus of Chapter Four is to examine the impact of provincial officials' bureaucratic concerns on their regulation of the labor condition. Through case studies of three provincial-level regions, namely Beijing Municipality,<sup>13</sup> Hunan Province, and Guangdong Province, the study brings to light under what conditions a bureaucracy becomes a “representative” for some social voices in the government's policy-making process.

More specifically, I find that when local labor officials have better chances to be promoted to the central level, constantly drafting rigid labor regulations serves as a signal that they are loyal and competent as shown in the Beijing case. When the chance is low, a local bureaucracy in charge of labor affairs who is not going to retire soon will be interested in taking the opportunity to implement the central reform in a way that can enhance his bureaucratic power in the provincial government. As in the Hunan case, the implementation of the labor contract system centers its efforts around bureaucratic restructuring such as creating the Small Leading Group to integrate the different departments in the provincial government, and establishing the Liaison

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<sup>13</sup> Beijing is a direct-controlled municipality. Its administrative status is provincial.

Mechanism to coordinate all the local governments below the provincial level. In these two cases, even if the potentiality of labor unrest is not high, these local officials still act as a “bureaucratic representative” for workers to promote pro-labor policies, although the major motivation behind this action is not to protect workers, but to increase their bureaucratic power.

On the other hand, a labor official might choose to speak for the business community and not for the working class when he will retire from the office very soon. As in the Guangdong case, the officials in the Labor Department and the Trade Union Federation can be captured by the personal ties with the local business community when the latter exerts pressures on the labor policy implementation process. This inclination is intensified by the fact that labor-intensive industries have strong leverages in Guangdong, given that these enterprises account for almost 40% of the province's GDP growth. The high degree of flexibility of the labor regulatory regime in Guangdong only starts to decrease when the top provincial leaders, who have strong aspirations and good opportunities to be promoted to the central government, intervene in the current system, and initiate pro-labor administrative activities to send signals to the central leaders of their loyalty, competence, and will to comply with the pro-labor reform direction. The conclusion drawn from these case studies provides a foundation for the hypothesis testing in Chapter Five.

The three cases inform us that local officials' concerns about their bureaucratic status and political promotion stimulate them to act on behalf of workers to implement the central agenda of regulating the labor condition. Chapter Five tests the effects of provincial officials' political aspirations on their cooperation with the central

government's pro-labor policy in the 2000s. Using the strength of provincial regulations as well as the records in provincial yearbooks as indicators of the degree of cooperation with the central pro-labor policy, I conduct a large-N study covering the 31 provincial-level regions in China on how they implement the central policy of regulating the labor condition in the 2000s. Collecting the political resumes of provincial party secretaries as well as the heads of provincial labor departments and federations of trade unions, through ordered logistic regressions, I examine whether these officials tend to make efforts to regulate the labor market when they are still young and have good opportunities for more bureaucratic or political power.

This dissertation concludes that China's regulation of the labor market in the 2000s is mainly driven by government officials' bureaucratic and political aspirations for more bureaucratic power and higher political status. Social grievances from the working class can only become influential in the policy-making process when some bureaucracies in the government seeing representing these social voices beneficial to their political power. When the two actors wish for the same policy outcome, although for different reasons, there is synergy between the social voice and the bureaucracy. My conclusion is thus somehow provocative, in the sense that it points out that, although the thirty years of reform have pluralized China's political arena, social voices do not enjoy systematic power in the policy-making process. Whether a social voice can be heard in the government is still largely dependent upon the various bureaucracies' interests. Accordingly, China's national and regional labor policy-making processes are still dominated by the special-interest bureaucracies within the government.



## **Chapter Two**

### **The Introduction of the Labor Contract System in the State Sector:**

#### **The Experimentalist Style of Policy-making**

Ever since the “Reform and Open-door Policy” was announced in the 11th Central Committee of the Chinese Communist Party (CCP) in December 1978, invigorating the economy through liberalization and introducing market-oriented mechanisms have been the major agenda for the Chinese government. In order to transform the socialist labor system and to make the labor regulation more flexible, the first step was to end the iron-rice-bowl practice in state-owned enterprises (SOEs) and to allow these enterprises to hire workers through labor contracting based on their own needs. Implementing the labor contract system in SOEs became a national policy in 1986 when the State Council issued the “Provisional Regulations on the Implementation of the Labor Contract System in SOEs” on July 12, 1986.

Before this document was announced, many local cities had already experimented with the new system on a small scale in the early 1980s. This chapter examines this experimentalist style of policy-making. As for the debates in the process of introducing the labor contract system, White's study has already provided comprehensive discussions (1987). In this chapter, I focus on the question of how policy experimentation was initiated and implemented. Section one briefly describes the background of the central reform. In the second section, I analyze how the central government promoted local experimentation, and how local sites were chosen to test

the effects of the central proposed new plan. The third section discusses local attitudes about the reform. While many SOE managers and workers were against the labor contract system, the implementation was not stopped. The agenda of flexibilizing the labor regulation was successfully carried out in the mid-1990s. The chapter is concluded in section four.

## **2.1 Central Policy Definition: The Genesis of a National Plan**

Under China's planned economy before the 1980s, the labor ministry was in charge of allocating workers into SOEs. All entrants to China's urban labor market received their jobs directly through the labor ministry's "centralized allocation" (*tongyi fenpei*). The philosophy behind this practice was egalitarianism. Education and tenure, not labor productivity, guided the reward system (Becker and Gao 1989, 413-4). In practice, these workers were usually called fixed workers (*guding gong*). There were very low levels of inter-enterprise, inter-sectoral or inter-regional mobility among them. Seniority was the most important criterion for promotion within an enterprise. Approval from the labor ministry was required for a fixed worker to be moved to another working unit (*danwei*). Alongside the system of administrative allocation evolved a de facto system of lifetime tenure of these fixed workers (White 1987). Workforces in SOEs were very stable and fixed workers are in fact permanent employees.

With a high level of job security, overmanning and "unemployment on the job" were prevalent (Kornai 1980, 254). But open unemployment was still a major problem

in China. Right after 1978, when those who had been “sent down to the countryside” during the Cultural Revolution came back to cities, urban unemployment skyrocketed. Table 2.1 shows the number of unemployment in the early 1980s.

Table 2.1 Urban Job Waiting Rates,\* 1978-1987

Year	Number of job-waiting people (unit:10,000 persons)	Rate of urban job waiting (%)	Number of job-waiting youth (unit:10,000 persons)	Proportion of job waiting youth to job-waiting people (%)
1978	530.0	5.3	249.1	47.0
1979	567.6	5.4	258.2	45.5
1980	541.5	4.9	382.5	70.6
1981	439.5	3.8	343.0	78.0
1982	379.4	3.2	293.8	77.4
1983	271.4	2.3	222.0	81.8
1984	235.7	1.9	195.9	83.1
1985	238.5	1.8	196.9	82.6
1986	264.4	2.0	209.3	79.2
1987	276.6	2.0	235.1	85.0

Source: China Labor and Wage Statistical Data (1978-1987), p. 109. Beijing: China Statistics Press.

\* Job waiting (*daiye*) literally means that job allocation is pending. It exactly refers to a status without any jobs. In Chinese, the term was created to avoid the use of the term, unemployment (*shiye*), because under the socialist system, everyone should have been guaranteed a job.

The number of unemployed youth in 1981 was almost as twice as that in 1978. This high unemployment rate forced the government to consider new policies and to reform the labor market regulations. In order to expand employment, in 1980, the Chinese government held a National Conference on Labor and Employment, and issued the document of “Improving the Task of Urban Employment,” which

introduced a labor policy framework named “three-in-one” (*sanjiehe*) to allow job placement through three venues: the local labor bureaus, worker's voluntary organizations, and self-employment.<sup>14</sup> This policy broke the rule of administrative “unified allocation”.

At the same time, the government also made efforts to establish more labor service companies to help workers to find jobs.<sup>15</sup> In August 1986, the People's Daily (*Renmin Ribao*) published an article recognizing the importance of labor service companies in the labor market. The article uncovered the unrealistic idea of full employment in the socialist system and urged the government to encourage the development of labor service companies to deal with the surplus of labor.<sup>16</sup> In China, labor service companies were either established by local labor bureaus, enterprises, or public service units (*shiye danwei*). As Table 2.2 shows, in the 1980s, a large amount of unemployed youth went to these companies for help.

Table 2.2 Number of Labor Service Companies, 1980-1984

Institutions who establishes the company	Total number (unit: 10,000)	The number of unemployed youth enrolled in the company (unit: 10,000 persons)
Labor bureaus at different levels of government	11	244
Enterprises, public service units, and the military	10	313
Total number	21	557

Source: Jiashu Liu and Fenghua Mao, *China's Reform of its Labor Institution*, p. 90, 1988. Beijing: Economic Science Press.

<sup>14</sup> See China Labour Net. On-line available at <http://www.labournet.com.cn/english/gener1.htm>

<sup>15</sup> In October 1981, the State Council published the “Decisions about Opening the Ways, Bolstering the Economy, and Solving the Urban Employment Problem”. The document laid out the principle of these three tasks.

<sup>16</sup> *Renmin Ribao*, August 11, 1986, p. 5. (Author: Cen Lian).

In addition to unemployment, low labor productivity was another problem of the iron-rice-bowl system. In practice, many enterprises found that the labor ministry's allocation could not match their needs. This created many management difficulties. To deal with these problems, the Chinese government gradually reduced state administrative control over labor allocation and to enable firms to recruit workers by themselves. In the new plan, the traditional heredity system (*zinv dingti*) should be suspended to make the hiring process more transparent. Enterprises were to hire workers through contracting, and these labor contracts were designed to be signed by workers and enterprises themselves.

When a labor contract was signed, the definition of worker's and manager's rights and responsibilities should be made clear. This helped concentrate workers' minds on performance. As White points out, those who supported the reform argued that the labor contract system could help improve labor productivity, given that it was the only criterion to determine whether the contract would be renewed (1987, 367). Moreover, if the performance of a contract worker (*hetong gong*) was not good and could not be improved through education, the factory director had the right to change her status to temporary worker (*linshi gong*),<sup>17</sup> or to delay the renewal of her contract, or to put her into three-month probationary period.<sup>18</sup> Contract workers thus became “the point of production” (*shengchan dian*). Their productivity was much higher than fixed workers.<sup>19</sup> Many government reports reveal that for most joint ventures who already implemented the labor contract system, their contract workers generated huge

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<sup>17</sup> Temporary workers only had wage incomes and did not receive any welfare benefits.

<sup>18</sup> Informant 12. Interview conducted in Beijing on March 09, 2008.

<sup>19</sup> Informant 12. Interview conducted in Beijing on March 09, 2008.

returns to these companies. While technology transfer from foreign countries might be the major reason why these joint ventures were more profitable than SOEs, higher flexibility of internal and external labor markets also mattered a great deal.<sup>20</sup>

The aforementioned problems of the iron-rice-bowl system, ranging from rising open unemployment rates to low labor productivity, were the major background of central government's decision to reform the socialist labor practices. But introducing the labor contract system was not easy. In the early 1980s, there were intensive debates over the priority of the reform. Was it more important to create jobs or to enhance productivity?<sup>21</sup> For those who emphasized full employment, the implementation of the labor contract system was not an urgent task. In order to muster support for the latter, the central government incorporated local governments into the stakeholders of the new system through including them into the reform. Local experimentation was initiated.

## **2.2 Top-down Policy Experimentation through Selecting Local Test Sites**

To advertise the labor contract system, the central government selected several local experimental sites to demonstrate the new system's benefits to local economic development. The first test site that was chosen by the central government was Shanghai. In the early 1980s, most foreign-invested enterprises in Shanghai had already recruited employers through contracting. The reason why Shanghai was

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<sup>20</sup> *Renmin Ribao*, July 16, 1991, p. 2.

<sup>21</sup> For the debates about whether solving the unemployment problem or enhancing labor productivity should be the government's priority, see the detailed discussion by White 1987.

chosen over others resides in that the central government expected the experiment in Shanghai would be successful, given that Shanghai had already experienced labor contracting in foreign enterprises, and the job waiting rates in Shanghai were lower than many other cities. In September 1980, the experimentation was first implemented in the Shanghai Semi-conductor Factory (now Shanghai WeiWu Electronics Co., Ltd.) and the China Textile Machinery Manufacturing Works (now China Textile Machinery Co., Ltd.). At the same time, Shanghai Municipal People's Bank and People's Broadcasting Station were also allowed to recruit skilled workers from the society by themselves.<sup>22</sup> In these companies, contract workers were formal employees, not temporary workers. Employing a contract worker had to follow the annual national labor plan issued by the then Ministry of Labor and Personnel.

The experimentation was concluded in 1982 when the Shanghai Municipal Labor Bureau issued the “Opinions about Experimenting with the System of Recruiting Contract Workers rather than Fixed Workers in Shanghai Municipal SOEs.” The document asked to expand the reform to other SOEs. In addition to Shanghai, more provinces were gradually included in the experimentation. At the end of 1982, there were totally nine provincial-level regions experimenting with the new system. They were coastal regions such as Shanghai, Beijing, Guangdong and Shandong, and inland regions such as Guangxi, Henan, Hubei, Anhui and Gansu. These localities were selected to be the test sites because compared to others, they succeeded in reducing urban unemployment. For the central government, implementing the labor

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<sup>22</sup> See Shanghai Local Gazette (edited by the Editorial Committee of the Shanghai Labor Gazette, 1998).

contract system in these regions helped change the focus of public discourse from unemployment to productivity (White 1987: 375). At the end of 1982, the number of contract workers reached 160,000.<sup>23</sup>

The Ministry of Labor and Personnel held a conference to review these experiments in February 1983. The conference recommended that successful implementation of the labor contract system required other policy changes such as reforms on the wage and the welfare system. For example, if a contract worker made more contributions in an enterprise than a fixed worker, she should receive a better wage.<sup>24</sup> The conference was concluded by issuing the “Notice of Actively Experimenting with the Labor Contract System,” which asked to extend the experiment to more provinces. For those provinces who had already implemented the system, they should pay more attention to wage and welfare reforms. For those who had not, they needed to select several cities within their regions for experimentation this year.<sup>25</sup> By the end of 1983, all provinces had implemented the labor contract system in some cities. The number of contract workers totaled 657,000 in SOEs and collective-owned enterprises across regions.<sup>26</sup>

In 1986, the State Council asked for nationwide implementation of the labor contract system in the state sector by issuing the “Provisional Regulations on the Implementation of the Labor Contract System in SOEs”. From now on, any new recruits in SOEs were hired through contracting. The heredity employment was thus

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<sup>23</sup> See “Chapter 18: The Scale of Employment is Larger and the Structure is Better,” in Analytical Report of the 50 years of the New China (Beijing: National Bureau of Statistics of China, 1999).

<sup>24</sup> Renmin Ribao, Feb 02, 1983, p. 4.

<sup>25</sup> See Big Events of the Chinese Government, 1980-1984. On-Line Available at China Net: <http://china.com.cn/chinese/zhuanli/273595.htm>

<sup>26</sup> Xinhua News Agency, August 17, 1984.



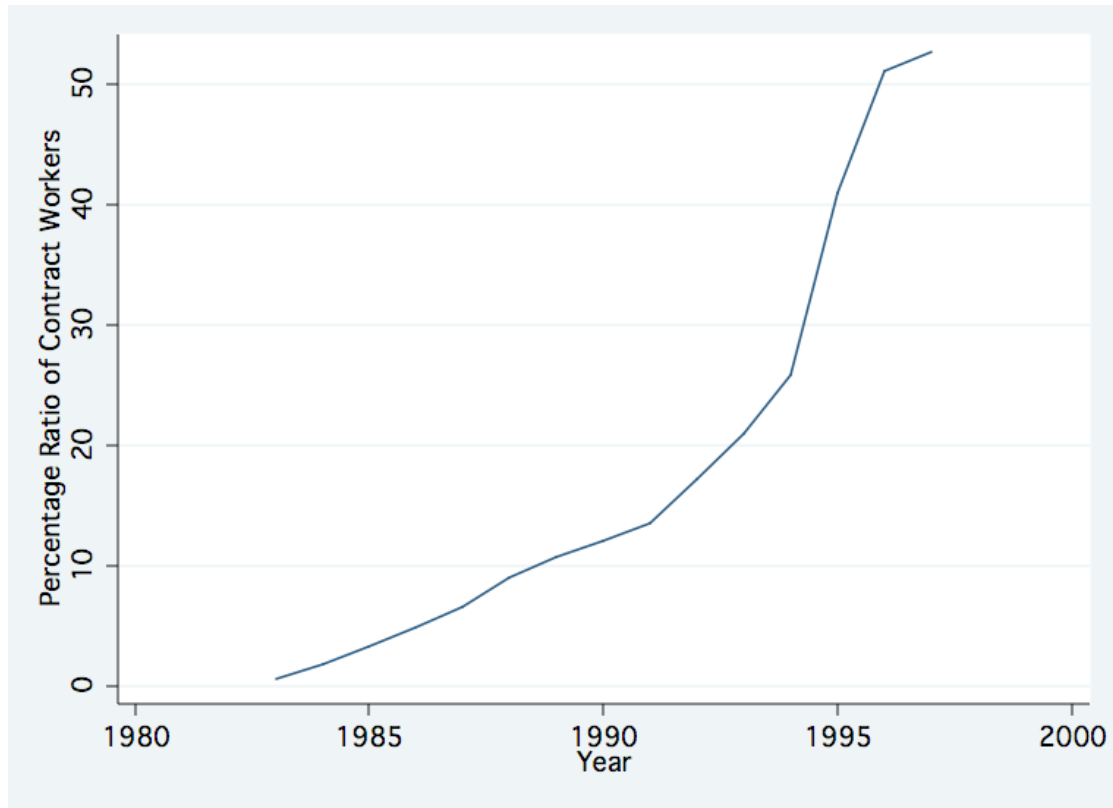
suspended. According to the rule, however, workers who were employed under the planned system before 1986 were not included in the new system. These workers were thus still permanent workers and did not have to sign any contracts with their employers. In addition to this document, there were three other regulations supporting the reform: the Provisional Regulations on the Hiring of Workers in SOEs, on the Dismissal of Workers and Staff in SOEs, and on the Unemployment Insurance for Workers and Staff in SOEs. After these National Regulations were promulgated as a guideline, almost all provinces issued their own detailed rules for local implementation. For example, Beijing passed the “Detailed Rules for Implementing the Provisional Regulations” on September 15, 1986.

The introduction of the labor contract system witnessed China's gradualist style of policy-making. Four years after its implementation in the state sector, the Ministry of Labor decided to expand the system to all enterprises regardless of their ownership structures by issuing the 1990 “Opinion about Continuing the Experimentation of Optimizing the Composition of Labor”. It also asked all employers to prepare contracts with all workers including those whose jobs were assigned through administrative allocation before. To facilitate this reform, the central government did not select local test sites. Instead, it delegated the power to provincial governments to choose their own places for experimentation. All provinces were encouraged to experiment with the policy in selected cities within their own jurisdictions.

In general, China's labor policy reform in the 1980s was characterized by the prevalence of various experimental regulations. From 1978 to 1994 when the first Labor Law (*Laodong Fa*, LL) was promulgated, there were more than 160 labor

regulations and rules issued by the government (Ngok 2008, 49). However, the percentage ratio of contract workers to total employees did not significantly rise until 1994. Figure 2.1 shows that it was only after 1994 that workers on contracts rose rapidly.

Figure 2.1 The Percentage Ratio of Contract Workers to Total Employees in China, 1983-1997



Source: China Statistical Yearbooks, various years.

According to the Figure, the reform in the 1980s was not very successful. The major reason why the percentage of contract workers was low in the 1980s is that in the early stage of reform, local governments generally had doubts about fully carrying

out the new system. In the next section, I will illustrate why the implementation was delayed at the local level.

### **2.3 Local Implementation of the Labor Contract System**

Local governments' implementation of the labor contract system can be divided into two stages. In the 1980s, the initial experimentation was modest while after the mid-1990s, the local implementation became wider and deeper. At the beginning of reform, the experimentation was largely a top-down process without strong supports from local governments. At that time, unemployment was the major pressure for local labor bureaus (White 1987, 373). Moreover, grievances of SOE managers and workers about the new system also hindered its full implementation. Since the mid-1990s, however, further reforms in SOE restructuring gave new impetus for local governments to promote labor contracting. Bottom-up supports from local governments became more intensive.

The initial experimentation of the labor contract system encountered much local resistance. Neither SOE managers nor workers were happy about the reform. For managers, the increased cost of labor management incurred by the new system undermined their willingness to implement the new policy. For workers, as White points out, the status of contract workers was not as attractive as that of fixed workers (1987, 384). In many localities, although the central government had already started to reform the heredity system, SOEs still faced strong requests from workers to have their children inherit their positions. Some SOEs even needed to establish urban

collective enterprises to place their employees' family members.<sup>27</sup> The pressure against flexibilization was intensive and most SOEs were reluctant to carry out the labor contract system.

The resistance of SOE managers to the reform was particularly serious in some less-developed provinces such as Hunan. This is mainly because Hunan is an inland province, and growing labor market flexibility was likely to jeopardize enterprises' ability to prevent workers from flowing to coastal cities. Compared to fixed workers, contract workers were less dependent on their enterprises, and the possibility of their mobility to other enterprises was higher. For many SOEs in Hunan, contract workers left their factories and went to coastal cities for more profitable jobs once they had learned the skills. According to a report from Yiyang Daily on the practice of labor contract system in 1987,<sup>28</sup> many contract workers left the factories before their contracts ended. Yiyang Municipality in Hunan province started to experiment with the labor contract system in 1984. In 1986, there were 13 enterprises implementing the system and the number of contract workers was about 2,700. Among them, there were more than 100 workers leaving their enterprises without any notification beforehand. Many of these workers quit their jobs in SOEs and went to coastal cities to do private business.<sup>29</sup>

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<sup>27</sup> Informant 12. Interview conducted in Beijing on March 09, 2008.

<sup>28</sup> Yiyang Daily, February 20, 1989.

<sup>29</sup> One of the reported cases shows how contract workers used various kinds of excuses to escape from their factories. A contract worker joined a machine tools factory in Yiyang in 1984. Two years later he suddenly disappeared. The manager went to the workers' home and his father responded that the worker had left Yiyang already because he was menaced by a bandit. Several months later however, he was found doing business in Guangzhou, a coastal city in southern China.

In the 1980s, complaints about contract workers' sudden leave were prevalent across the country. Many local labor bureaus made policies to regulate workers' mobility. For example, in Hunan, several municipalities announced that if a contract worker left her job without authorization, she would not receive any job waiting insurance or medical compensation. Moreover, labor service companies would not provide any employment information to her within two years. However, in practice, local labor bureaus still encountered great difficulties to implement these regulations. In Changde municipality in Hunan, the total job waiting people in 1986 were about 200, but there were more than 3,000 people applying for jobs in the following year. The discrepancy between these two numbers shows that many of the latter were actually contract workers leaving their original employers without notification and then applying for a second job. This is why the number of people applying for jobs was much higher than that of job waiting people.<sup>30</sup> Since many SOEs did not report missing contract workers to the Municipal Labor Bureau,<sup>31</sup> the Labor Bureau did not have any information about who these missing contract workers were, and thus it was impossible to implement the aforementioned regulations to penalize them. Moreover, even if SOEs found that they had hired missing contract workers from other enterprises, the Labor Bureau usually tolerated these workers, given that they had worked in the new SOEs for a while.<sup>32</sup> Therefore, for enterprises, while the labor contract system enhanced the autonomy of their labor use, it also raised the cost of managing these laborers.

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<sup>30</sup> Binhu Daily, May 26, 1988.

<sup>31</sup> Enterprises did not want to spend time and resources in finding out these missing workers.

<sup>32</sup> Informant 13. Interview conducted in Yiyang in Hunan province, May 16, 2008.

On the other hand, in the 1980s, for most SOE workers, being hired by the old system was more appealing than by contracting. The socialist system used to have a slogan that fixed workers were the “host” of SOEs. For those who grew up in the iron-rice-bowl system, they regarded contract workers as an inferior status, even if reformers had made efforts to persuade them that there was no difference between the two. In practice, many contract workers reported that they were often being discriminated by SOE managers. A female manufacturing worker in a mechanics factory in Beijing reported that her manager sued her for making fake stories to take a sick day off when her eyes were truly wounded on the job. She mentioned that this was exactly the reason why she only stayed in the factory for one year and then quit the factory without notification.<sup>33</sup> For many SOE workers, they did not want to stay as contract workers. If they did, they usually wished to be “promoted” to the status of fixed workers later.

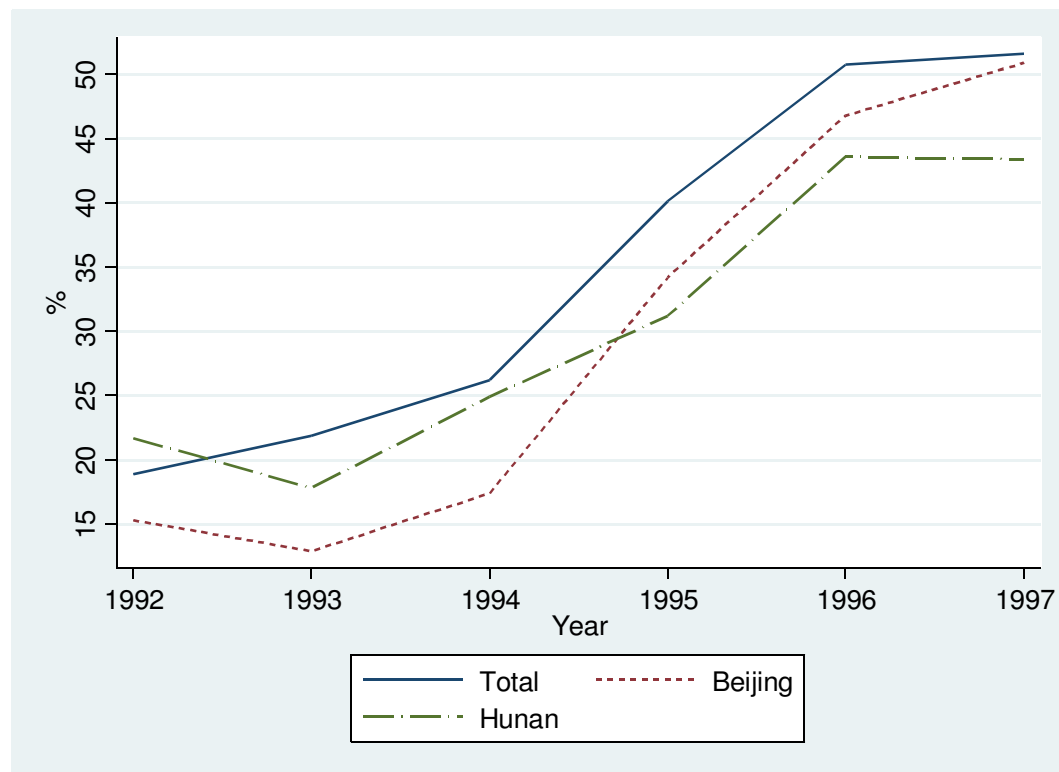
This resistance to the labor contract system complicated the process of local experimentation but did not stop the reform. As discussed, the grievances of SOE managers were very serious in Hunan as SOEs in the province encountered significant cost regarding labor management. However, the magnitude of implementing the labor contract system in Hunan was still greater than many other provincial-level regions including Beijing, where the cost of preventing contract workers from leaving for coastal regions was lower because Beijing was a coastal city. As Figure 2.2 shows, in the early 1990s, the percentage ratio of SOE contract workers to total employees in Hunan was higher than that in Beijing. While there were no data on the number of

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<sup>33</sup> Beijing Daily, October 19, 1988.

contract workers before the early 1990s, the number in the year of 1992 shows that the reform in Hunan was deeper than the national average, given that the ratio of contract workers in Hunan (22%) was higher than the national ratio (19%). This reveals that strong social resistance did not necessarily impede local governments' continuation of the experiment. In fact, the Hunan government made more efforts to implement the system. Beijing, on the other hand, did not make as much effort to carry out the reform as Hunan did until 1995 when the Labor Law was promulgated.

Figure 2.2 The Percentage Ratio of SOE Contract Workers to Total Workers in Beijing and Hunan, 1992-1997



Source: China Statistical Yearbooks, various years.

From Figure 2.2, we also see that the implementation of the labor contract system had become more effective from the year 1994 as the total ratio of contract

workers grew quickly from then. In fact, the labor contract system was largely facilitated by the Chinese government's agenda to liberalize the state sector. Before the SOE restructuring, SOEs were work units providing comprehensive social welfare to their employees. The work-unit-based welfare system under the planned economy placed an enormous financial burden on SOEs and reduced their competitiveness. Many SOEs facing financial difficulties were unable to perform their welfare function and meet their social insurance commitments. In the 1990s, the Chinese government urged SOEs to change from their multifunctional roles as producers, regulators, and redistributors to be clearly focused on their economic roles (Smart and Smart 2001, 1855). The SOE reform gave new impetus for enterprises and local governments to promote labor contracting, because implementing the labor contract system helped flexibilize the workforce in the state sector. Moreover, contract workers were generally more productive and could stimulate more economic growth for enterprises.

In addition to the increased flexibility in the state sector, the 1990s also saw a diversification of labor relations. Employment in SOEs gradually declined while the share of employment in private and foreign-invested enterprises doubled. As labor relations increasingly diversified, different kinds of labor contracts were widely used in the labor market. However, at that time, there were no governmental documents recognizing the varieties of labor contracts. In February 1992, the Ministry of Labor announced the “Notice on Expanding the Experiment of Labor Contract System in All Workers”, and it was the first national document differentiating labor contracts into three categories: non-fixed-term labor contract, fixed-term labor contract, and labor contract with time limits for the completion of a specific task.



While the 1992 Notice introduced the three kinds of labor contracts, it did not specify the conditions under which a particular kind of contract was supposed to be signed. The 1994 Labor Law is the first document explicitly stating this condition. The Law stipulates that an employer needs to sign a non-fixed-term labor contract with employees who have worked continuously for more than ten years (LL Article 20). In the “Notice of the Ministry of Labor on Implementing the Labor Contract System Nationwide” (issued on August 24 in 1994 right after the Labor Law), the government added new rules that when an employee is going to retire within ten years, a non-fixed-term labor contract should be concluded.

The 1994 Notice clearly states that the 1994 Labor Law is the conclusion of all the previous experiments conducted in the 1980s. In addition to local experimentation, many ministries of the State Council such as the Ministry of Electronic Industries, the Ministry of Metallurgical Industry, the Ministry of Railways, and the China National Petroleum Corporation had also implemented the new system in their supervised enterprises. The process to experiment with the labor contract system first and to make the Labor Law later reveals that in the 1980s and 1990s, policy always comes first, and then law follows (Ngok 2008, 48).<sup>34</sup> Only those policies that have been successfully experimented with would be codified into written laws.

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<sup>34</sup> The experimentalist style of policy-making can be found in China's making of other policies. For example, the introduction of the re-employment service center for SOE laid-off workers also follows this experimentalist logic. The policy was a bottom-up innovation from the Shanghai experience (Lee and Warner 2004).

## 2.4 Conclusion

This chapter describes China's gradual introduction of the labor contract system through selecting local test sites for small-scale experimentation. In the 1980s, the rising unemployment and low labor productivity led the central government to initiate the new policy. To muster support for the reform, the Chinese government chose several localities where the unemployment rate was relatively low and economic growth was already robust to experiment with the labor contract system. By doing this, it included these localities into the stakeholders of the reform. Successful experimentation of the new system in these localities served as an advertisement for its full implementation.

The implementation of the labor contract system, however, was still delayed. This is because in the 1980s, most SOE managers and workers were against contracting. The reform was speeded up in the 1990s when the government launched further reforms for SOE restructuring. In order to make SOEs more profitable, deregulating the SOE workforce became one of the major tasks. The number of contract workers were thus significantly increased. When the system was effectively implemented nationwide, the government concluded all the experiments with the promulgation of the 1994 Labor Law.

While the ratio of contract workers rose from the mid-1990s, we find that in Figure 2.1, the ratio of contract workers to total workers in 1995 was still under 50%. This is because although most SOE workers had transformed their status from fixed workers to contract workers in the 1990s, many employees in the non-state sector

were not recruited through contracting. In the non-state sector, most enterprises did not sign any contracts when hiring their workers. After the labor contract system was successfully carried out in the state-sector, the next step of labor policy reform centered around restructuring the workforce in non-state enterprises. Chapter Three will focus on the process of expanding labor contacting to the non-state sector.

## Chapter Three

### **The Expansion of the Labor Contract System to the Non-state Sector: A Positive and Negative Case Analysis**

The previous chapter examined China's introduction of the labor contract system in the 1980s and 1990s to reform the SOE iron-rice bowl system. In that period, restructuring SOEs toward market-oriented functions was the first priority on the central government's economic agenda. I demonstrated that in the process of deregulating the SOE workforce, policy experimentation through decentralization was the major tool used to promote flexibilization. In the 2000s, however, when the central government initiated a series of policies to expand the labor contract system to regulate its non-state sector, the pace of policy change became quicker and the gradualist and experimentalist style of policy-making was replaced with larger-scale and more expedited reforms. This new policy-making style manifested itself in the surprisingly low number of experimental regulations that were applied to the endeavor. Moreover, the promulgation of the 2007 Labor Contract Law (*Laodong Hetong Fa*; henceforth LCL) was widely thought of by many businessmen as a sudden move, conducted without any appreciable experimentation beforehand. The new rapid policy change demonstrated that the central government was eager to regulate the labor condition in the non-state sector.

While the new reform was celebrated for its comprehensive protection of the working class, it also gave rise to a variety of controversies both in business and

academic communities over its potential negative economic impacts. For instance, business leaders in labor-intensive industries worried that the LCL would undermine China's comparative advantage in labor costs, and economists warned about consequent increase in unemployment. To explain why the voice from the working class was more influential than the business community in the labor policy reform in the 2000s, this chapter conducts a positive and negative case analysis to illustrate under what conditions workers' grievances could have a say in the government's policy-making process.

I find that workers' voice was more influential because there were some important bureaucracies in the Chinese governing structure seeing that acting on behalf of workers could be beneficial to enhancing their bureaucratic status. The pro-labor policy aiming at regulating non-state enterprises was set off by two Chinese bureaucratic institutions, namely the then Ministry of Labor and Social Security (MOLSS) and the All China Federation of Trade Unions (ACFTU), to take the opportunity to regain the portion of their power that had been relinquished under marketization since the 1980s. With these bureaucracies wishing for the same policy outcome, workers' voice became critical in directing the policy change. On the other hand, the lack of strong bureaucracies sharing the same policy preference as the non-state business community disabled their voice from being powerful in changing the pro-labor policy reform.

The chapter proceeds as follows. In the next section, I discuss the background of China's regulation of the non-state sector in the 2000s. I argue that while the increasing labor unrest has justified the improvement of the labor condition, there is

no yardstick for gauging how serious a threat that the unrest has posed to the regime. Section two traces the process of how the central government initiated several national acts to expand the labor contract system to the non-state sector. This section also provides a closer look at these policies and analyzes the skilled-worker-biased regulations. In the third section, I examine the incentive structures of the MOLSS and the ACFTU and discusses under what conditions the socio-bureaucratic synergy was developed between skilled workers and these two labor bureaucracies. The fourth section uses non-state entrepreneurs' low political leverage as what Mahoney and Goertz call a negative case (2004) to show that there was no strong bureaucracy in the government acting on behalf of non-state enterprises to delay or change the direction of the pro-labor policy reform. Based on the discussion, I argue that socio-bureaucratic synergy was the necessary condition for a social voice to fulfill in order to have a say in China's policy-making process. I conclude my paper in the fifth section.

### **3.1 Background of Regulating the Non-state Sector**

As Chapter Two pointed out, the implementation of the labor contract system in the state sector successfully liberalized the workforce in China's SOEs. Now, state workers are no longer permanent ones but are hired through contracting. In fact, China's liberalization of the state labor market is one of the most successful economic transitions seen during the reform era. In addition to transforming fixed workers to contract ones in the state sector, the relaxed household registration system and the socialization of the welfare system also facilitated the flexibilization agenda (Liu

2009). In the non-state sector, the employment flexibility is even much higher than in SOEs. During the 1990s, most enterprises in the non-state sector did not have any trade unions. Managers did not sign any labor contracts with their employees either.

Without any labor contracts, many workers were not protected by the 1994 Labor Law. The Law was simply not applicable even to those cases where workers' rights were de facto violated. In many situations, even if a worker was hired via contracting, his contract might still be invalid. According to the 1994 LL, labor contracts are to be concluded in written format, and are to contain the following clauses: time limit of the contract, content of the work, labor protection and conditions, remunerations, labor disciplines, conditions for the termination of the contract, and liabilities for violations of the contract (LL, Article 19). However, in practice, managers usually found ways to bypass these rules. According to a lawyer I interviewed in Beijing,<sup>35</sup> among those cases concerning labor disputes with which he dealt before, many labor contracts were unclearly written and lacked certain required clauses. For example, one worker signed a contract with her employer, but the contract did not specify the job's location. The worker received a notice three months later that she was assigned to another branch of the firm located in a different district in Beijing. The worker was reluctant to move, because the branch was far away from where she lived. However, she was also afraid of being dismissed if she did not accept the assignment, given that her contract did not identify a specific job location. In fact, many enterprises deliberately omitted specifying job locations in order to maintain flexibility when the need for dismissals arose.

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<sup>35</sup> Informant 21. Interview conducted on November 05, 2007.

In addition to the prevalent flaws within labor contracts, employees usually signed their contracts in a rush, and did not understand the full implications of what they were signing. For instance, a worker in a non-state manufacturing enterprise in Changsha Municipality (Hunan Province) told me that he was allowed only three minutes to peruse and sign his contract, and that it was totally impossible to carefully read and understand the details. The worker also complained that he did not receive a copy of the contract. The only copy was given to the enterprise.<sup>36</sup> In another interview, a worker reported that he did not realize that he actually had a contract until he got injured on the job. His manager came to him with the contract to deal with the compensation issue. Apparently, the contract had not even been signed by the worker. The employer had only prepared the contract to avoid possible repercussions from the local Labor Bureau's inspectors.<sup>37</sup>

In fact, the 1994 LL itself was insufficient for the government to correct labor abuse in the non-state sector. First of all, most of the clauses in the 1994 LL regarding labor contracts merely focus on contract termination. The inadequacy of the law in regulating the process of labor contracting inhibited effective enforcement of the system within the non-state sector. The LL also lacks adequate clauses to punish employers if they fail to sign contracts with their employees. It does not clarify a position regarding invalid contracts either. This left the Labor Bureaus with very few weapons to regulate the non-state sector.

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<sup>36</sup> Informant 31. Interview conducted in Changsha, Hunan on May 21, 2008.

<sup>37</sup> Informant 22. Interview conducted in Beijing on November 16, 2007.



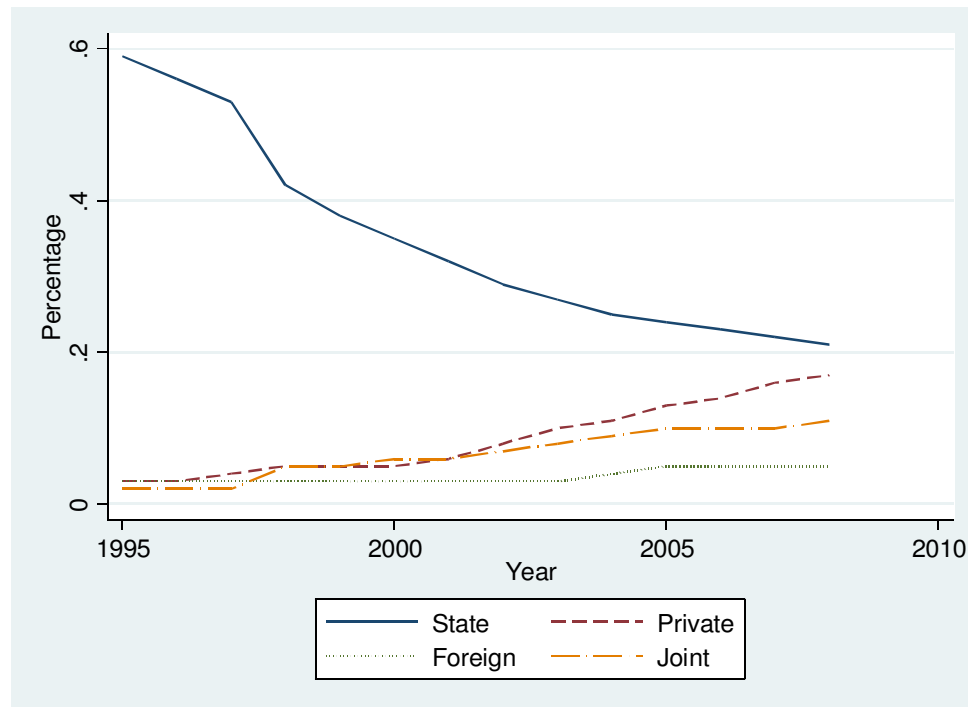
The inadequacy of the LL, however, was not the whole story. While protecting the legitimate rights and interests of laborers is included in the 1994 LL, and the law does not exclude the non-state sector from the labor contract system, the major purpose of the law is still not to regulate the non-state sector but to readjust labor relationships and to establish a system accommodative to the market economy (LL, Article 1). As one of the retired officials of the Hunan Labor Department said, “having all SOEs hire workers through contracting was the major policy (*zhuyao zhengce*). We also paid attention to the non-state sector, but we wanted to make sure that there was no problem in SOEs. It's a gradual reform. You cannot make everything successful at the same time.”<sup>38</sup>

The extreme flexibility of the non-state labor market caused a great amount of labor instabilities in China. The problem has become even more serious as the share of employment increased within non-state enterprises since the late 1990s. Figure 3.1 shows that, in urban areas, employment in SOEs substantially declined, while the share of employment in non-state enterprises in the mid-2000s doubled from levels in the early 1990s.

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<sup>38</sup> Informant 36. Interview conducted in Changsha, Hunan on May 15, 2008.

Figure 3.1 Urban Employment, by Enterprise Ownership, 1995-2008.



Note: State refers to state-owned enterprises. Private refers to the private sector. Foreign refers to foreign-funded enterprises including Hong Kong-, Macao-, and Taiwan-funded ones. Joint refers to joint owned, limited corporations, and shareholding units.

Sources: CEIC China Premium Database (*Zhongguo Jingji Shujuku*)

The widespread use of laborers without any contracts or with very short-term ones led to the extremely high degree of numerical flexibility in China's non-state labor market. Numerical flexibility refers to “the ease with which the numbers of workers employed can be adapted to meet fluctuations in demand or technological innovation”. In practice, it includes employers' capacity to lay off employees for downsizing and to use new forms of employment, such as part-time and temporary workers (Regini 2000). Without any labor contracts, many Chinese workers had no documents to prove that they were indeed hired by their enterprises. They were likely

to be dismissed anytime at the will of their enterprises. The degree of job security in China's non-state labor market was thus very low.

The achievement of high numerical flexibility usually sacrifices other types of labor market flexibility, especially the functional flexibility, which refers to managers' ability to redeploy workers and to move them from one position to another (i.e. horizontal and vertical mobility within enterprises), or to change the jobs' content through retraining workers (Regini 2000). Since redeployment within a company and firm-specific retraining both require long-term employment relations, if the ease of dismissing workers is high, firms tend to under-invest in human resource development, and employees also do not have strong commitments and attachments to a single company.

As a matter of fact, firms' adoption of functional flexibility was much rarer than that of numerical flexibility in China. Some studies find that many enterprises thought that the most effective and productive way to organize workers was to promote the rule of “fixed person and fixed post” (*dingyuan dinggang*), namely dividing assembly processes into separate sections and attaching each employee to a specific task (Liu 2009). Most workers did not have multiple skills, and job rotations were not common in China. Because the use of workers could be very flexible, enterprises did not have incentives to provide vocational training to their workers.<sup>39</sup>

While numerical flexibilization facilitated the liberalization of China's socialist system, the low degree of employment security and the increasing number of temporary and atypical workers as well as informal employment instabilized the labor

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<sup>39</sup> Informant 48. Interview conducted in Guangzhou, Guangdong on June 13, 2008.

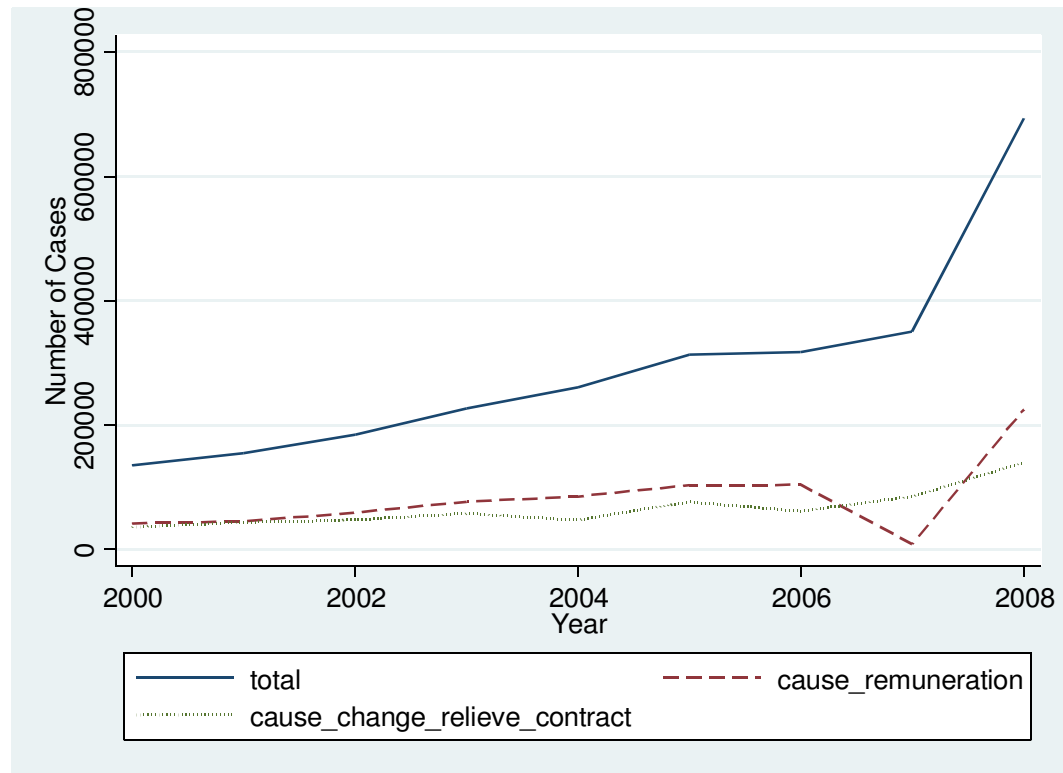
relations in many enterprises. Moreover, in the non-state sector, other problems such as wages falling into arrears and the withholding of employees' social insurance payments were also prevalent. The problem of wages arrears jumped to prominence when a female migrant worker, Xong Deming, stopped Premier Wen Jiabao when he was on his way to visit Chongqing Municipality in 2003, as mentioned in Chapter One.

In addition to wage withholding, the decline of labor contract length, coupled with excessive work hours, also revealed a worsening scenario of labor conditions. In the 2000s, the number of labor disputes in the non-state sector skyrocketed. According to the Beijing Labor Dispute Arbitration Committee, among the 40,523 cases received by the Committees at all levels within Beijing from January to June in 2009, those concerning non-state workers constituted 88% of the total cases, while the disputes involving SOEs and collective enterprises were 5%.<sup>40</sup> Nationwide, as Figure 3.2 shows, the total number of labor dispute cases accepted by the Labor Dispute Arbitration Committees at all levels of the Chinese government has increased as well.

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<sup>40</sup> See “The Analysis of the Task of Labor Dispute Arbitration of January to June of 2009”. <http://www.ldbzfx.org/show.asp?articleid=493>

Figure 3.2 The Number of Labor Dispute Cases Accepted by the Labor Dispute Arbitration Committee, 2002-2008.



Source: China Labor Statistical Yearbooks, 1999-2009.

According to the Figure, among these cases, wage arrears were a serious problem (as the long dash line indicates). Many disputes arose when enterprises went broke and did not pay any economic compensation to their former employees. For example, Guidong County in Hunan Province, facing the financial crisis in 2008, saw many construction and processing (*lailiao jiagong*) industries either stop their production or go bankrupt. A knitting and garment factory only paid one month salary to their workers, and went bankrupt after three months, which resulted in defaulting on the payment of RMB 45,700 to forty workers.<sup>41</sup> In addition, issues related to change,

<sup>41</sup> See the official website of the Hunan Labor Department.  
[http://ldt.hunan.gov.cn/pub/govweb/gzdt/2010/hn10/t20100529\\_54426.htm](http://ldt.hunan.gov.cn/pub/govweb/gzdt/2010/hn10/t20100529_54426.htm)

relief, or termination of labor contracts were also a constant cause of labor disputes (as the short dash line in the Figure shows). Many employers were unwilling to prepare non-fixed-term contracts when they had to. Others did not negotiate with their employees before changing the content of labor contracts.

While some workers went to the local Labor Dispute Arbitration Committee to deal with their disputes, many others chose to petition the local People's Congress or the Labor Bureau. At the same time, strikes also erupted in many labor-intensive manufacturing factories. For example, in April 2009, workers in Wintek Corporation (*Shenghua Keji*), a Taiwan-funded LCD (liquid crystal display) manufacturing company, went on strike when they found the earning for their overtime work on the payment sheet was reduced from double to one and half of the normal salary. This lighted the fuse for the protest against the company's wage adjustment without any notification beforehand. These disputes indicate that, while flexible firing practices generated a large amount of economic growth, the unregulated labor relation in the non-state sector has reduced the stability of labor relations.

However, even though labor disputes have been reported as increasing in the 2000s, there were no yardsticks for gauging how serious a threat they have posed to the regime (Tanner 2004). Unlike SOE workers in the 1990s who targeted the government to stop the flexibilization of job security rules, the current protests sparked by non-state workers in the 2000s focused more on fighting against their enterprises than criticizing the government. For most non-state workers, "the enterprise was the

one to blame.”<sup>42</sup> In most cases, these protests did not escalate to a degree where the government was regarded by workers as the cause of their miseries. Many workers kept their eyes on the wrongdoings of their managers, and did not accuse the government of failing to correct the business community. This claim was echoed by the Chinese academia. In June 2010, after a series of workers suicides in Foxconn's factories in Shenzhen, many Chinese scholars collectively blasted Foxconn and launched several petitions against the company.

Given that the Chinese government was not the target, it could somehow stay away from the criticisms of most protests organized by non-state workers against their enterprises. Workers' grievances found in the Chinese society might be serious, but the mere existence of these disputes did not amount to real threats to the regime survival. That being said, workers' complaints were not totally absent from the policy-making process. As will be demonstrated in the following discussion, while labor instability did not inflict vital damages on the Chinese government, they gave the officials in charge of labor affairs an opportunity to initiate policies for better protection of laborers' legitimate rights. In the 2000s, labor officials in the Chinese government launched several programs to facilitate the regulation of the non-state sector. Next section illustrates how these officials promoted the expansion of the labor contract system to the non-state sector.

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<sup>42</sup> Informant 43. Interview conducted in Guangzhou, Guangdong on June 07, 2008.

### 3.2 Steps for Regulating the Non-state Sector

Without adequate regulations, the Chinese labor bureaucracies lacked tools to correct the deteriorating labor condition in the non-state sector. Starting from the late 1990s, these bureaucracies began to make specific and detailed regulations to facilitate the labor contract system in the non-state sector. The first target was town and village enterprises (TVEs). In June 1996, the then Ministry of Labor (MOL)<sup>43</sup> and the Ministry of Agriculture (MOA) together announced the “Notice of Implementation of the Labor Contract System in TVEs.” The Notice states that one of the goals in promoting the labor contract system is to stabilize labor relations in these enterprises. It asks all the key enterprises within the collective sector to implement the labor contract system by the end of 1996. Those who are not on the list of key enterprises also have to foster an environment for implementing the system.

At that time, private enterprises had even less satisfying records of implementing the labor contract system than collective-owned enterprises.<sup>44</sup> In May of 1996, the MOL, the State Administration for Industry and Commerce (SAIC), and the

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<sup>43</sup> The Ministry of Labor was the predecessor of the MOLSS. In 1998, the State Council launched the Government Restructuring Program and abolished fifteen ministries including the MOL. At the same time, four new ministries were established including the MOLSS. This restructuring reduced the number of ministries in the State Council from forty to twenty-nine. In 2008, the MOLSS was merged with the Ministry of Personnel. The new ministry was named the Ministry of Human Resources and Social Security. See the official website of the Central People's Government of the PRC. [http://www.gov.cn/test/2009-01/16/content\\_1207000.htm](http://www.gov.cn/test/2009-01/16/content_1207000.htm)

<sup>44</sup> Collective enterprises exist in both urban and rural areas. The term “collective-owned” means that the assets of these enterprises are de jure collectively owned by the people of a given locality. These enterprises are different from state-owned enterprises, which are de jure owned by all the Chinese people.



China Enterprise Confederation (CEC)<sup>45</sup> jointly announced the “Notice of Implementation of the Labor Contract System in All Private Enterprises and Individual Industrial and Commercial Households.” This Notice obligates all levels of the CEC to help advertise the labor contract system. It does not, however, set up any deadline for full implementation of the system. Together these two Notices were promulgated as part of the central government's campaign for the expansion of the labor contract system to the non-state sector. However, these documents were only policy suggestions and not binding regulations, and there were no significant follow-up administrative campaigns to promote them in the late 1990s.

Regulating the non-state sector became a major issue for the central government in the early 2000s. Several policies were initiated to support the expansion of the labor contract system to the non-state sector. In the reform process, the first step was to force all employers to sign individual labor contracts with their workers. The then Ministry of Labor and Social Security (MOLSS) made efforts into inspecting enterprises' actual contracting procedures. Official records show that the number of enterprises being inspected by the MOLSS has been increased year by year since 2002 (See Table 3.1). Moreover, as Table 3.1 indicates, the MOLSS also successfully helped some workers to sign labor contracts with their employers. In 2007, there were more than 1,500 contracts signed after enterprises were inspected.

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<sup>45</sup> The China Enterprise Confederation along with the China Enterprise Directors Association are two mass-representative organizations for Chinese non-state entrepreneurs. The All China Federation of Industry and Commerce (ACFIC) is another mass-representative organization for the non-state sector. The role of the ACFIC will be discussed in Section 3.4.

Table 3.1 Labor Inspection by the Ministry of Labor and Social Security

	Employing Units Inspected (10,000 households)	Laborers Involved (10,000 persons)	Number of Labor Contracts signed for Inspection (10,000 persons)
2002	98.4	7171.5	730.9
2003	110.7	7987.4	895
2004	115.2	8162.7	1102.9
2005	118.5	9161.3	1127.6
2006	141.3	9198.3	1243.4
2007	160.2	9869.7	1652.5

Source: China Labor Statistical Yearbooks, various years.

The implementation of the labor contract system was also facilitated by several administrative programs. In order to help the labor contracting process, the MOLSS publicized several standardized or “boiler-plated” types of labor contracts for enterprises to follow. In addition to the MOLSS, China's single official trade union, namely the All China Federation of Trade Unions (ACFTU), also actively participated in the process of promoting the labor contract system in the non-state sector. In March 2006, a “Three-year Action Program of the Labor Contract System” was initiated by the national tripartite meeting for coordinating labor relations. The national tripartite mechanism, consisting of the MOLSS, the ACFTU, and the China Enterprise Confederation/China Enterprise Directors Association, was formally set up in August 2001 and consistently an advocate of improving labor conditions in the non-state sector. The major theme of the 2006 Program was to achieve a 100% of labor-contract usage from 2006 to 2008 in all kinds of enterprises.

The resolution to achieve full percentage of labor hires via contracting was further brought to light when the campaigns of organizing trade unions in the non-state sector and making a labor contract law were launched. The former set up the

foundation for a collective contracting system, while the latter provided the Chinese government with stronger tools to inspect the labor market. Through these two programs, the Chinese government extended the rights under the labor contract system (and protected by the 1994 LL) that were already enjoyed by most SOE workers to those employed in the non-state sector.

### ***3.2.1 Organizing Trade Unions in the Non-state Sector***

The campaign for organizing trade unions in the non-state became a prominent issue for the ACFTU in the late 1990s. Before that, the ACFTU did not have firm-level trade unions established in most non-state enterprises. This policy was publicly announced in a national conference held by the ACFTU in 1999 in Ningbo Municipality (Zhejiang Province). The slogan was “where there is a worker, there should be a trade union.” The conference set up a goal to establish local branches of the ACFTU in 80% of the “newly established enterprises” (*xinjian qiye*), namely the non-state sector. This desire was also clearly illustrated in the 2001 Trade Union Law (TUL). As the Law states, any enterprises with 25 or more members shall establish grassroots trade unions (Article 10).

To implement the campaign, the ACFTU assigned quotas to local Federations of Trade Unions at all levels in the Chinese administrative system.<sup>46</sup> The formal procedure to organize a firm-level union was as follows. First, a preparation group of

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<sup>46</sup> According to the 1992 Trade Union Law, the ACFTU operates uniformly at the national level. A locality at county level or above establishes a local Federation of Trade Unions. Several enterprises operating in the same industry, or in industries of a similar nature, may establish a national or local specific-industry Federation of Trade Unions.

three to five people was set up to take charge of organizing a union. The upper-level Federation of Trade Unions should approve the preparation group's request to organize the union within three days. Second, the preparation group was responsible for advising the union to all employees and for recruiting as many members as possible. Third, all the members were divided into several subgroups within the union. A subgroup usually had seven to twenty people, and the leader was elected by its members. Fourth, a trade union representative assembly was held to select members of various trade union committees and the fund inspection committee.<sup>47</sup>

Establishing the ACFTU branches at the firm level met with violent resistance from employers. Some managers complained that “we actually do not see it is necessary to have our workers unionized. We are abiding by all the government labor regulations. Our workers are fully protected. Why do they need a union?”<sup>48</sup> Right after the revised TUL was promulgated in 2001, the ACFTU recognized that there were “three difficulties” (*san nan*), namely the difficulties to organize unions, to protect workers' rights and to collect fees for union activities, down the road to implement the Law.<sup>49</sup> To combat enterprises' resistance, the ACFTU linked the campaign for organizing unions with the goal of defending workers' rights. Moreover, the ACFTU deliberately selected large foreign-owned enterprises as the target to implement the campaign. Focusing on foreign companies evoked Chinese people's nationalist sentiments (Gallagher 2002) and helped legitimize the movement. On July 29, 2006, Wal-mart established its first trade union in China in Quanzhou (Fujian Province)

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<sup>47</sup> Informant 30. Interview conducted in Tianjin on March 25, 2008.

<sup>48</sup> Informant 24. Interview conducted in Beijing on November 23, 2007.

<sup>49</sup> Renmin Ribao, September 22, 2004, page 13.

under the Chinese government's pressure. By the end of 2006, the Director of the ACFTU's Grassroots Organization Department, Guo Wencai, announced that there were about 6,000 of Wal-mart's 30,000 employees in China who were already union members. In general, the ACFTU was successful in formally establishing grassroots unions in many non-state enterprises.

### ***3.2.2 The Making of the Labor Contract Law***

Improving government regulations to implement the labor contract system was another major approach toward regulating the non-state sector. As discussed, the 1994 LL helped achieve the goal of deregulating the SOE workforce, but there were severe deficiencies in the Law as it attempted to regulate the labor condition in the non-state sector. According to an interview with an official in the Legislative Affairs Office of the State Council, it was considered a matter of fact that right after the 1994 LL was enacted, the Labor Ministry began to mull over the possibility of making a law specifically regarding labor contracts. The drafting process, however, was subsequently discontinued, because then Premier Zhu Rongji viewed the SOE restructuring as the top priority on the government's economic reform agenda, and a law that might create additional complications in the industrial relationships was apparently an impediment for the government when dealing with layoff issues.<sup>50</sup>

The legislation process of the Labor Contract Law was first initiated by the MOLSS in the early 2000s. A limited number of academic experts formally

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<sup>50</sup> Informant 1. Interview conducted in Beijing on March 15, 2008.

participated in the drafting process (Gallagher and Dong 2009). In 2004, the ACFTU joined the group to collectively propose the first draft of the LCL to the State Council (Jiang 2007). The principle of the first draft of the LCL was passed by the Standing Conference of the State Council led by Premier Wen Jiabao in October 2005, and was then put on the agenda of the Standing Committee of the National People's Congress (SCNPC) on December 24, 2005. The SCNPC immediately conducted a comprehensive investigation of the implementation of the 1994 LL at the grassroots level. The focus of the investigation was to know the rate of contract usage within all kinds of enterprises. The results were, not surprisingly, extremely unsatisfactory. As Zhang Shichen, the Vice-director of the Legislative Affairs Commission of the Working and Administrative Bodies of the SCNPC, said, "SCNPC's investigation directly led to the promulgation of the LCL."<sup>51</sup>

The SCNPC worked closely with the MOLSS and the ACFTU in the investigation. In fact, the Chairman of the ACFTU, Wang Zhaoguo, is one of the Vice-chairs of the SCNPC. Many members on the SCNPC have good relations with the MOLSS. One of the then Vice-ministers of the MOLSS, Hua Fuzhou, had worked for the SCNPC before being promoted to the position in August 2003.<sup>52</sup> The MOLSS and the ACFTU had critical impacts on how the law was discussed on the SCNPC. Later more actors were included in the process. In March 2006, the SCNPC released the first publicized draft, and this draft was recognized as the only fifth law in the

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<sup>51</sup> Sina Finance News, December 27, 2007. <http://finance.sina.com.cn/g/20071227/22104344693.shtml>.

<sup>52</sup> According to the Organic Law of the NPC, members on the SCNPC are not eligible to serve as officials in the administrative branch (Article 23). But some of them have promising political careers to be promoted to the State Council. Hua Fuzhou is one of the cases. [http://news.xinhuanet.com/zhengfu/2003-08/27/content\\_1047441.htm](http://news.xinhuanet.com/zhengfu/2003-08/27/content_1047441.htm)

Chinese history that openly sought out public opinions. In total, it received more than 190,000 instances of public feedback. Not every opinion from the feedback was useful for the legislation, however. As my interviewee released, “some of the pieces were only complaints or trying to tease the government.”<sup>53</sup>

The making of the LCL was different from that of many other Chinese laws in the sense that the degree of “departmental legislation” (*bumen lifa*) was less serious in the process. In China, many government regulations only reflected the interests of those who initiated them. They were used to confirm the results of experiments and to codify the existing policies (Ngok 2008, 49). But in the making of the LCL, several articles in the draft fell under intensive debate. The inclusion of controversial “hot points” in the law-making process deviated from China's conventional decision-making trajectory, wherein drafters tended to exclude contentious policies from a law. According to my interview with a member on the SCNPC,<sup>54</sup> the LCL was one of the most eye-catching laws during SCNPC's discussion sessions. The interviewee pointed out that when the SCNPC was discussing other laws, only those who were specializing in those laws would be interested in the discussion. In the case of the LCL, however, almost every representative was motivated to share his or her own thoughts.

Before the final version was unanimously passed by the SCNPC in June 2007, there was one draft for public consultation and three drafts for SCNPC's internal discussion.<sup>55</sup> Some researchers find that the controversial and polarized drafting

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<sup>53</sup> Informant 1. Interview conducted in Beijing on March 15, 2008.

<sup>54</sup> Informant 2. Interview conducted in Beijing on April 10, 2008.

<sup>55</sup> The three LCL drafts for SCNPC's internal use were not made public until the final version was promulgated. For these drafts, see Appendix in Chang Kai ed., *The Legislation of the Labor Contract*

process of the LCL represented conflicting viewpoints from various “pro-worker” and “pro-business” lobbying groups, and the outcome witnessed a compromise between them (Cooney et al. 2008, 788; Gallagher and Dong 2009). For the pro-business voice, some economists were worried that the new reform to promote workers' rights, especially the making of the 2007 LCL, would damage the sustainability of China's economic growth. For example, Wuchang Zhang claimed that “the LCL is made for lazy people.” Being the major loser of the 2007 LCL, many non-state enterprises cultivated discourses to legitimize their resistance. Some of them directly criticized the quick pace of the policy-making and argued that the passage of the LCL ran against the long experimentalist tradition in China. During the annual meeting of the NPC in March 2008, one representative from Guangdong Province, Li Shuguang, openly suggested to experiment the LCL at local sites before its national implementation. As Li stated, “The implementation of the LCL could be beneficial to employees. I don't think the law is overly pro-employee though. However, to promote such an important law as the LCL, we should consider to experiment on it in some localities first... Is the LCL suitable for China's current situation? The central government should be more cautious.”<sup>56</sup> This comment was echoed by a lampoon made by Chen Ping of Peking University that the LCL obviously violated the experimentalist tradition that had brought China both prosperity and stability. “The most successful story of our economic reform is experimentalism. But now, we want to implement the LCL

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Law (*Laodong Hetong Lifang*). Beijing: China Labor and Social Security Publishing House, 2008, pp. 301-366.

<sup>56</sup> See China Social Security. [http://www.cnss.cn/xwzx/zl2/ldhtf/rdjj/200803/t20080303\\_179475.html](http://www.cnss.cn/xwzx/zl2/ldhtf/rdjj/200803/t20080303_179475.html).



without any experimentation. This violates our most important experience. It is nothing but an imitation of Western failed welfare state,” said by Chen Ping.<sup>57</sup>

The debates involved not only a range of Chinese actors, but also international business lobbyists. In fact, foreign enterprise associations such as the American Chamber of Commerce (AmCham) in Shanghai and the US-China Business Council were among the most outspoken agencies. The AmCham, for example, petitioned the government to revoke the new rule about dismissal procedures. It argued that the improvements designed to protect workers from arbitrary firings would significantly raise labor costs for employers. At a time when the appreciation of the RMB has already discouraged the development of export-oriented enterprises in China, especially labor-intensive firms, the LCL would adversely impact China's economic growth (Chen and Funke 2008).

While the line of the LCL was pro-worker, the policy-makers were not totally reluctant to compromise with pro-business voices as long as they did not run against the general direction of regulating the labor condition in the non-stat sector. For example, as far as the use of labor dispatch arrangements (*laowu paiqian*) was concerned, Article 12 of the first draft asked labor dispatching agencies to deposit at least RMB 5,000 into a bank account designated by a local labor administrative department for every employee dispatched. Moreover, it also stipulated that when an one-year contract with a dispatched employee ended, the employer would have to hire the employee directly. If not, the employer would not be allowed to use a labor

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<sup>57</sup> See Research Seminar on the 2008 Session of the NPC and the People's Political Consultative Conference (CPPCC), held by the China Center for Economic Research (CCER) at Peking University on March 20, 2008. <http://finance.jrj.com.cn/news/2008-03-20/000003432093.html>.

dispatching agency to hire a different person for the same position (Article 40 of the first LCL draft). Many enterprises strongly opposed these articles, alleging that it diluted both managers' discretion and flexible employment. For example, the US-China Business Council openly issued its comments against these articles.<sup>58</sup> However, the second draft (drawn up in December 2006 for SCNPC's internal deliberation) still kept the clause that, when a labor contract with a dispatched employee ends, the employer must renew the contract (Article 57 of the second LCL draft). These rigid regulations on labor dispatch arrangements were not removed until the third draft, which was drawn up in April 2007 for SCNPC's internal use.

Overall, the pro-worker and pro-business voices were asymmetrical in the law-making process. The pro-business group was powerless in altering the pro-labor policy direction. Its weak political leverage could be illustrated by the debate related to one of the most controversial clauses of the LCL, that is, the non-fixed-term contracts (*wuguding qixian hetong*). A non-fixed-term labor contract refers to the type of contract in which employers and employees stipulate no certain termination date. In other words, the term is indefinite and the contract can only be ended for cause. In comparison with the 1994 LL, the 2007 LCL significantly lowers the threshold for making a non-fixed-term labor contract. Under the 1994 LL, a contract without a fixed term can only be requested after an employee has worked continuously for the same employer for ten full years (Article 20). But in the 2007 LCL, in addition to keeping this rule, the LCL has another provision stating that a labor contract without a fixed

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<sup>58</sup> US-China Business Council, "Comments on the Draft Labor Contract Law of the People's Republic of China," March 20, 2006. <http://www.uschina.org/public/documents/2006/04/uscbc-comments-labor-law.pdf>

term shall be offered to a worker after two fixed-term contracts have been concluded consecutively (Article 14). The LCL substantially promotes the use of non-fixed-term contracts.

Almost the entire business community ranging from foreign-invested to domestic private firms openly opposed the rule when it was under deliberation in the SCNPC. For them, non-fixed-term contracts amounted to the return of “iron-rice bowls”. As one manager said, “they are an amulet for workers because we almost have no discretion to dismiss them.”<sup>59</sup> In August 2007, Zhang Shicheng, the Vice-director of the Administrative Law Office of the SCNPC, made a comment which again heightened the managers' concern. He said, “The new Labor Contract Law helps workers to regain their iron-rice bowls, because it provides detailed regulations on non-fixed-term labor contracts.”<sup>60</sup> This aroused another round of criticisms from the business community. Several months later in November 2007, Zhang Shicheng had to rephrase his old comment and rejected the equation of non-fixed-term contracts with the old system.<sup>61</sup> Ultimately, the clauses about non-fixed term contracts were not changed in the final version.

Other articles also demonstrate that the policy-makers put more emphasis on protecting workers. When the third draft of the LCL was on SCNPC's agenda in April 2007, the law makers added a new clause to require employers to construct worker recruitment lists when an employment relationship is established (Article 7 of the third LCL draft). This new rule was a reaction to a serious coal mine accident in Shanxi

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<sup>59</sup> Informant 45. Interview conducted in Guangzhou, Guangdong on June 03, 2007.

<sup>60</sup> Sina News, August 14, 2007. <http://news.sina.com.cn/c/2007-08-14/101213659777.shtml>

<sup>61</sup> Sina Finance, November 03, 2007. <http://finance.sina.com.cn/hy/20071103/16464135347.shtml>

Province in early 2007, wherein the employers concealed the death toll. This reveals that sometimes the Chinese government would use regulations as a response to critical social events. As a Chinese lawyer said, “China's law-making process contains many contingencies. A broadcast social event might have a great impact on the content of a law.”<sup>62</sup>

The LCL making process shows that the Chinese government was willing to take into consideration social grievances. Nowadays, many Chinese bureaucracies are not necessarily opposed to listening to societal voices. When conducting my field research in China in 2008, I observed that the central government had sent many low-level officials, especially those technocrats, to various occasions to get feedback on its policies. These occasions include workshops in many universities in Beijing and other provinces, which usually attracted not only college students but also ordinary citizens. Many citizens who attended these meetings, however, did not see that the government was responsive to their needs. In a workshop I attended at Tsinghua University in Beijing where the speaker was an official of the Legislative Affairs Office of the State Council, a male worker stood up at the Q and A session to voice his disappointment that the LCL did not reflect the needs of most migrant workers. “I think I don't really need to be on a job for a long time. I'm pretty mobile. I'm more worried about insurance though. I want to have an insurance that can cover me wherever I move. But right now if I sign a labor contract, I myself need to deposit part of my salary into various insurance funds here. The problem is that if I move to other provinces or even

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<sup>62</sup> Informant 21. Interview conducted on November 5, 2007.

other cities, I cannot bring this money with me. I think the government just doesn't know what the real situation is.”<sup>63</sup>

The reason why the government was still unable to be aware of many real grievances was that societal voices could not represent themselves in the policy-making process. While social actors were allowed to express their opinions, they did not have any votes in shaping the direction of policy changes. Societal voices were generally not the major force in China's policy-making, especially at the stage of policy initiation. In the following discussion, I will illustrate that the current labor policy reform to protect workers' rights in the 2000s actually centered its efforts around promoting skilled workers' job security. The skilled-worker-biased regulations were put on the government's agenda because the reform were initiated by the MOLSS and the ACFTU for the purpose to enhance their bureaucratic power. The major goal was not to respond to workers' grievances but to enable the two bureaucracies in regulating the non-state labor market.

### ***3.2.3 Protecting Insiders or Outsiders?***

The 2007 LCL provides more comprehensive and stringent protection of workers than the 1994 LL. In addition to ensuring that every worker had a written contract with detailed terms of employment, the MOLSS also urged the business community to standardize the content of labor contracts. It asked all provinces to draft

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<sup>63</sup> The workshop was held on March 06, 2008.

boiler-plated copies of contracts for different industries to follow.<sup>64</sup> A labor contract should contain the length of employment, working time, wages, and terms for changes, renewal, and termination of the contract. In most provinces' standardized copies for hiring urban workers, social security benefits such as insurance for work-related injuries, pension, and medical insurance were included. Some provinces also prepared contracts specific to short-term workers or migrants, and the rules about social insurance were generally different from those in urban workers' contracts. For example, Tianjin Municipality announced the “Labor Contract for Enterprises to Employ Migrant Workers”, and the Contract did not require the submission of pension for migrant workers.

Among the biggest changes of the reform were the new termination provisions. The LCL significantly increased the degree of job security. According to the Doing Business report, in 2009, compared to the difficulty of hiring (which scored at 11) and the rigidity of hours (which scored at 33), China's redundancy difficulty was particularly high (which scored at 50). The overall high rigidity of its labor market regulation was mainly caused by the difficulty of terminating a labor contract.

Job security is guaranteed by several clauses in the LCL. First, the Law prohibits the illegal use of temporary workers without any written contracts. Every temporary worker should be hired through contracting and there is no distinction between contract workers and temporary workers. Second, any extensions of probation periods are subject to penalties. This new rule aims to prevent managers

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<sup>64</sup> The MOLSS published several provinces' standardized copies of labor contracts on its official website. See <http://www.molss.gov.cn/gb/ggfw/ldhtfb.htm>

from arbitrarily dismissing workers without any compensation. Third, in order to combat the decline of contract length in practice, the LCL encourages the use of non-fixed-term contracts and urges against any short-term ones. On the one hand, employers need to pay economic compensation when a fixed-term labor contract expires if they do not renew it with the worker, which makes the use of short-term contracts less cost-efficient. On the other hand, the LCL no longer allows the use of series of fixed-term contracts as the 1994 LL does. According to the LCL, a labor contract without a fixed term shall be offered to a worker after two fixed-term contracts have been concluded consecutively. Moreover, there exists a retraining or reassignment obligation before an employer can make a worker redundant. For group redundancy dismissals, an enterprise needs to inform the trade union or all the employees within thirty days and to report to the local labor bureau where the enterprise is located.

These rigid termination provisions, however, only protect core skilled workers' jobs, and are not useful in reducing much of the numerical flexibility practice among low-level unskilled workers. Employing Lindbeck and Snower's concept (2002), I use insiders and outsiders to describe these two types of workers. By inside workers, I mean those incumbent employees with medium-level skills or above. They usually occupy core positions in the company. In comparison, outsider groups include those in the periphery positions with low skills, the unemployed, the new entrants to the labor market such as the youth, and those working in the informal economic sector.

In China, the percentage of inside workers, namely those with medium-level skills or above, is extremely low in the labor market. According to China's 2004

Economic Census<sup>65</sup>, the percentage of workers that are at least medium-skilled is only 9.05%. If we count the number of workers with senior, medium and junior professional titles, we find that the percentage of skilled workers is slightly higher at 19.57%. But still, a vast majority of workers are unskilled in China's labor market. As a human resources manager told me, in some industries, such as the construction industry, almost 90% of employees were in peripheral positions.<sup>66</sup> Table 3.2 and 3.3 show the official data from the 2004 Economic Census.

Table 3.2 Number of Workers by Technical Level, Unit: 10000 Persons

	Number of all workers	Technical level				Number of workers with medium skills or above	The percentage of workers with medium skills or above in the labor market
		Senior technician	Technician	Senior skilled	Medium skilled		
National total	21261.66	51.73	162.93	618.13	1090.98	1923.77	9.05%

Source: The 2004 China Economic Census

Table 3.3 Number of Workers by Professional Title, Unit: 10000 Persons

	Number of all workers	Professional level			Number of workers with professional titles	The percentage of workers with professional titles in the labor market
		Workers with senior professional title	Workers with medium professional title	Workers with junior professional title		
National total	21261.66	398.66	1535.36	2226.68	4160.7	19.57%

Source: The 2004 China Economic Census

In reality, many Chinese enterprises have increasingly adopted the Japanese style of employment, that is, high functional and temporal flexibility for a core group of permanent and skilled employees and extreme numerical and wage flexibility for the large periphery of temporary and contingent jobs. To circumvent the regulation on non-fixed-term contracts, many enterprises chose to dismiss unskilled workers before

<sup>65</sup> The data can be retrieved from China Data Online.

<sup>66</sup> Informant 50. Interview conducted in Guangzhou, Guangdong on June 09, 2008.



the conclusion of two fixed-term contracts. Several newspapers reported that before the LCL was enacted in 2008, many managers forced their workers to resign their posts first, and then rehired them as new employees. This action was aimed to suspend the seniority of their workers in the enterprise.

Moreover, many companies also took advantage of labor dispatch practices that are permitted in the LCL to recruit lower-level workers. The LCL grants enterprises the right to use dispatched workers for “temporary, auxiliary or substitute job positions” (Article 66). Workers under labor dispatch arrangements are not hired by the enterprises they work for, but by labor dispatching agencies. These agencies are responsible for matching up employees with employers who need them, and paying employment benefits for these workers. The major benefit for enterprises to hire workers through labor dispatch agencies is that enterprises only use these workers but are not the one who signs their labor contracts.

A widely-reported case, *Huawei*, reveals how companies adopted this strategy to keep lower-level workers flexible. *Huawei Technologies Co. Ltd.*, headquartered in Guangdong, is the largest non-state-owned telecommunications equipment supplier in China. To dodge issuing non-fixed-term contracts, the company announced a new policy named “Transforming All Temporary Workers to Dispatched Workers” by the eve of the effective date of the LCL. According to this policy, all temporary workers had to sign contracts with the *Chengchuang Labor Dispatching Agency*, and hence to change their working status from temporary workers of the company to dispatched laborers of the dispatching agency. By doing so, these workers' seniority was forfeited in the enterprise. If they chose not to do so, their original contracts would

automatically be terminated. A female worker, Huang Xiurong, who worked for the company for twenty-four years and decided not to transform her status. When her original contract ended at the end of 2007, she lost her job.<sup>67</sup> This practice was also prevalent in foreign enterprises. For example, more than 100 employees who worked in Wal-mart's procurement offices were dismissed during autumn 2007, about 40 in Shanghai and 60 in Shenzhen (Wang et al. 2009). For many lower-level laborers, the Law was actually not very welcome because of the immediate loss of jobs.

The *Huawei* case shows that companies could still flexibly use their non-core workers. According to my field research in China in 2008, many enterprises tended to fill their non-core positions with dispatched workers. “Dispatching workers has lots of benefits. We use these workers but we don't manage them. It is the dispatching agencies that need to take care of these workers' contracts, insurance, and even wage offering.”<sup>68</sup> This trend has been reinforced since the promulgation of the LCL. The number of dispatched workers significantly increased from 20 million before the enactment of the LCL in June 2007 to 27 million at the end of 2007 (Chen 2008).

On the other hand, the rule about non-fixed-term contracts substantially strengthens the job security of core workers. In addition, the regulation on severance pay (Article 46 of the LCL) provides these workers with more power to bargain with their employers against dismissals. The increased dismissal price discouraged enterprises to lay off workers, and the new turnover cost equipped the employed with more leverage to negotiate a wage raise. The Law was thus widely praised by higher-

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<sup>67</sup> Xinhua News Agency, September 19, 2008. [http://news.xinhuanet.com/politics/2008-09/19/content\\_10077796.htm](http://news.xinhuanet.com/politics/2008-09/19/content_10077796.htm)

<sup>68</sup> Informant 45. Interview conducted in Guangzhou, Guangdong on June 03, 2008.

level laborers. For some enterprises, the Law was also beneficial to their labor management, because it helped keep these core workers in their companies. In fact, the problem of skilled worker shortage was widespread in China in the 2000s. As one of my interviewees stated, “In our industry, a common problem is to keep workers. Many of them moved to other companies in the same industry after they received full training from us and earned the skills... The LCL helps reduce the mobility of these workers to some degree.”<sup>69</sup>

Some Chinese labor law scholars have also noticed this problem. As Dong points out, the LCL provides steady employment protection to core workers, but it is useless in preventing low-level unskilled ones from being exploited or even dismissed at managers' discretion (Dong 2008). In enterprises' labor management, there was a clear distinction between core and flexible workers. The lowered threshold of non-fixed-term contracts and increased severance pay only enhanced the job security of a certain portion of laborers. Numerical flexibility practices were still prevalent among lower-level workers. The Chinese labor market increasingly segmented into “good jobs” with relatively high wages and job security, and “bad jobs” such as the position which Huang Xiurong had in *Huawei*.

The insider-biased regulation had another impact on China's labor market, that is, the potentiality of rising unemployment among outside workers. Although unemployment is an outcome of many factors, a more rigid rule on employment could lead to managers' unwillingness to hire new workers. In the literature, many labor economists have found that labor turnover costs associated with dismissal of

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<sup>69</sup> Informant 29. Interview conducted in Beijing on April 21, 2008.

incumbent employees and with hiring and training of new recruits give insiders their market power (Lindbeck and Snower 2002). These costs come in many guises, including hiring costs, such as firms' search for new workers, and firing costs, such as severance pay and other legal protection against dismissal. Due to these costs, firms are reluctant to replace their high-wage inside employees by low-wage new workers because it is costly to do so. Insiders can thus protect their jobs and keep their wages from being underbid by potential new workers (Ibid.). Accordingly, new entrants to the labor market are usually the direct victim of insiders' market power. With high labor turnover costs, companies tend to secure insiders' jobs when facing economic shocks and are unwilling to hire new entrants, such as the youth or the low-skilled in the labor market. Employment inertia and privileged treatment of insiders under rigid employment protection are likely to cause unemployment among outsider groups.

In China, rising unemployment among outside and unskilled workers was widely reported after the promulgation of the LCL. In addition to the aforementioned practices that some enterprises chose to dismiss workers before the renewal of their contracts, the increased rigidity of the job security rules under the LCL discouraged managers to hire the youth and the unskilled. In some situations, managers even tended to recruit retired workers. As several newspapers reported, a large number of enterprises began to hire the retired or SOE laid-off workers and not to fill the vacancies with new workers. The advantage of recruiting retirees resided in the fact that according to the State Council's "Interim Measures for Retirement and Leaving One's Job," any person who is above the retirement age cannot be the subject of labor relations. Retirees are thus not laborers in the legal sense, and their relations with

enterprises are no longer labor contract relations. When a worker meets his retirement age, he is supposed to receive his pension from the social pension fund, and is no longer eligible for many kinds of insurance such as those for work injuries. There is thus no need to pay any insurance fee for these retirees who come back to work. These rules reduce the cost of hiring an retiree in comparison to young workers under the LCL. As a local newspaper in Hunan Province reported, a 61-year-old laid-off worker who lost his job due to the original employer's bankruptcy was hired by a new company in 2007. His wage was about RMB 3,000 per month, higher than many young people in the same position. The company said that, "older workers are better. They have the skills and we don't need to train them. Moreover, these old workers usually have more commitments. They won't leave our company to [go to] another one."<sup>70</sup>

The trend of hiring retired workers sacrificed the employment opportunity for outsider groups. In China, unemployment among the youth and new entrants to the labor market was already very serious in the early 2000s before the LCL was promulgated. By September 2007, there were about 1,440,000 college graduates unable to find any jobs. The problem was so acute that many universities had no ways to show a better employment record of their graduates except to cheat on the number reported to the Ministry of Education. This practice was ridiculed by many Chinese college students as a phenomenon of "I am employed without my permission" (*bei jiuye*). That is, universities unilaterally assigned a company to a graduate on his

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<sup>70</sup> Sanxiang City Express (*Sanxing Dushi Bao*), December 07, 2007, page 18.

Employment Agreement (*jiuye xieyishu*),<sup>71</sup> but the company actually did not exist.

Universities might also ask a graduate to try to put a stamp on his Employment Agreement without any examination on whether the stamp was true or not.

While unemployment problem was severe, the focus of the LCL was not to create more jobs. On the contrary, the increased level of job security for core workers was likely to reduce the employment opportunity for outsider groups such as the youth. During the debate of making the LCL, concerns about the impact of increasing labor market rigidity on outsiders' employment were usually triumphed over by arguments based on protecting insiders' rights. Many legal scholars who participated in the law-making process used sentimental rhetoric such as “worker's golden ages are used up by enterprises” to justify their proposal to protect insiders (Dong 2008). The emphasis of the dominant discourse was to improve the labor condition of those who were already employed. When there were discussions about whether the LCL would increase the unemployment rate, most law-makers' response was that the LCL would only weed out enterprises which illegally used laborers, and there was no reason to keep these enterprises in the market. Reducing unemployment was not a critical issue for the LCL makers, and the potential negative impact on unemployment among outsiders was not a concern either. It is thus not surprisingly that much of the regulation in the LCL systematically favors inside workers' job security and ignores outsider groups' employment opportunity.

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<sup>71</sup> In China, a college graduate needs to sign an employment agreement with his university and employer before her graduation.

Moreover, some local Labor Bureaus' initial response to *Huawei*'s action of laying off workers also reveals that the MOLSS did not see unemployment among lower-level workers caused by the LCL as a serious problem. As an official in the Labor Bureau of Shenzhen Special Economic Zone stated, "The large-scale resignation in *Huawei* company was a voluntary negotiation between the laborers and managers. The company's new policy and the procedure to dismiss workers did not violate the Law."<sup>72</sup> Only when the event was widely reported by many Chinese newspapers and generated fierce social criticisms toward the Labor Bureau's original decision did the government start to draft new rules to criticize the action. The Labor Department of Guangdong Province issued the "Guideline on the Application of the Labor Dispute Mediation and Arbitration Law and the Labor Contract Law" on June 23, 2008, and then invalidated the enterprise's arbitrary circumvention of the regulation on non-fixed-term contracts. The Guideline states that it is illegal to force laborers to resign from their positions first to make their seniority forfeited to zero and then to write another labor contracts to rehire them to the company.

The insider-outsider analysis informs us that the Chinese government did not intend to use the LCL to deal with the problem of increasing unemployment among outside workers. The focus of the legislation was to protect job security, especially that of insiders. In the next section, I will analyze the incentive structure of the Chinese bureaucracies in the labor policy-making process. The study will shed light on

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<sup>72</sup> See China's Trade Union News at People.com, July 23, 2008.  
<http://acftu.people.com.cn/GB/7547076.html>

the question of why inside workers' grievances were more influential than those of outsiders and the non-state business community in the labor policy-making process.

### **3.3 Positive Case: Social Voices Who Win: Socio-bureaucratic Synergy and Inside Workers**

As discussed, in the process of making the policies to regulate non-state enterprises, including the making of the LCL and the campaign for organizing trade unions, the then Ministry of Labor and Social Security (MOLSS) and the All China Federation of Trade Unions (ACFTU), were the two major bureaucracies promoting these policies. How did these government agencies become activists in drafting policies to represent the voice of the working class in the 2000s? In China's policy-making processes, bureaucracies usually had their own interests, either organizational or political. In some cases, they may want to take advantage of the new policies to maximize these interests. In the rest of the section, I will demonstrate that for these two bureaucracies, it was in their best interests to expand the labor contract system and to regulate the labor condition in non-state enterprises, because these policies helped regain their political power and bureaucratic status that had been relinquished by marketization since the early 1980s.



### ***3.3.1 The Ministry of Labor and Society Security***

China's central ministry of labor affairs has undergone several rounds of restructuring since the establishment of the PRC. The government restructuring, along with the changing economic environment, has significantly affected the ministry's bureaucratic power. In general, the ministry enjoyed the highest de facto political power in the pre-reform period in comparison with other industry-based central ministries, and the 1990s witnessed its declining influence in the political system. The ministry did not regain its bureaucratic strength until it was empowered by the LCL to regulate the labor condition in the non-state sector.

In the pre-reform era, the ministry was one of the major actors supervising the central-planned economy. During 1956-1966, the then Ministry of Labor (*laodong bu*; MOL) was the main government agency responsible for labor allocations in SOEs. Initially, the Ministry, along with other fifteen ministries related to economic affairs, was under the direction of the Central Finance and Economic Commission in the first five years after the establishment of the PRC. The Commission was established in 1949 and Chen Yun was the first director.<sup>73</sup> The task of the Commission was to restore economic order and to coordinate the management of related affairs. The Commission was abolished when the State Council was built in 1954. Then the MOL was assigned to the Fourth Office of the State Council.

Under the planned economy, the MOL enjoyed de facto higher status among the various ministries related to economic affairs in the central government, although

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<sup>73</sup> For the detailed process of establishing the Commission, see Liu and Zhao 2002.

their de jure bureaucratic status was all the same. The power of the MOL largely came from the fact that it could, in practice, supervise the then industry-based ministries and their SOEs through the intervention of their labor allocations. At that time, a SOE equipped with more workers usually implied that it was bigger and hence its supervising ministry was more important in comparison with other ministries in the government. In order to receive a higher quota of workers, these industry-based ministries in the central government usually needed to involve themselves in negotiations and bargaining sessions with the MOL. As one of the retired officials in a provincial Labor Department informed me, “The MOL was critical to any economic decision of the central government. How laborers should be allocated affected how an industrial policy was implemented.”<sup>74</sup> In most cases, industries that had been selected as the target for development would receive more quota of staff and workers. While the selection was made by the top leaders and the MOL was unlikely to alter the decision, it still had leeway to manage the actual number of labor allocations.” The MOL was thus practically empowered at that time, given that it was in charge of how many workers a SOE could have.

During the Cultural Revolution, most central ministries stopped functioning. The MOL was merged with other ministries to the State Planning Commission (SPC). At the end of the Revolution, the General Bureau of Labor (GBU) was established and detached from the SPC. In May 1982 during the first government restructuring in the reform period, the Chinese government integrated the management of cadres (ganbu) and that of workers, and had three bureaus, the then GBU, the National Bureau of

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<sup>74</sup> Informal 36. Interview conducted in Changsha, Hunan on May 15, 2008.

Personnel and the Bureau of Technocrats and Managers merged into the Ministry of Labor and Personnel (MOLP).<sup>75</sup> This was the first time when the Chinese government assigned a ministerial-level bureaucracy for managing cadres. Before then, the Communist Party was the major supervisor of cadre management and there were only a bureau, not a ministry, for cadre management in the government's side.<sup>76</sup> In the second round of government restructuring in 1988, the supervisor of cadre management was separated from that of workers again. The MOLP was divided into the Ministry of Labor (MOL) and the Ministry of Personnel. In 1998, the MOL was abolished to establish the Ministry of Labor and Social Security (MOLSS).

Since market-oriented reforms were introduced in the early 1980s, the Ministry significantly lost its power over other ministries due to the introduction of the labor contract system in SOEs. Without the power to intervene in the labor force in most SOEs, the Labor Ministry was unable to maintain its higher bureaucratic status in the government. As Chapter One already pointed out, multiplicity of administrative functions is one of the three major indicators to know the ups and downs of a bureaucracy's power. The weakening bureaucratic status of the Labor Ministry in comparison to most industry-based ministries can be illustrated by the delayed process of transforming industry-based pension funds to a geography-based system in the mid-1990s.

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<sup>75</sup> See the official website of the State Commission Office for Public Sector Reform. <http://www.scopsr.gov.cn/jgsz/zbbbsgy>

<sup>76</sup> See the interview with Yin Weiming, the Minister of Human Resources and Social Security. People's Daily [http://www.gov.cn/gzdt/2008-07/11/content\\_1042506.htm](http://www.gov.cn/gzdt/2008-07/11/content_1042506.htm)

In the mid-1990s, when SOE privatization was in progress, the MOLSS initiated programs to build a new pension system for urban workers.<sup>77</sup> The progress of establishing this new system was largely delayed due to the existing industry-based pension funds. In the early 1990s, SOEs with nationwide operations were permitted to set up their own pension and other kinds of social insurance funds. Eleven industry-based pension funds were accordingly set up at the national level. These eleven funds included funds of electronics industry, water conservancy, railways, post and telecommunication, transport, coal industry, finance, petroleum industry, aviation industry, metallurgical industry, and construction.

The existence of these industry-based pension funds led to the fragmentation of pension administration and hindered the development of a nation-wide pension fund (Frazier 2004). Many SOEs chose to stay in the industry-based system and refused to make contributions to the geographic pool formed by city governments. One prominent example, the *Panzhihua* case, revealed how enterprises protested higher contribution rates by refusing to pay to the local pension fund. *Panzhihua Iron and Steel* was a major producer in the iron and steel industry located in Sichuan Province. It joined the local pool in 1986, but as the iron and steel industry began to set up its own industry-based pool in 1992 which offered a better deal with lower contribution rates, the enterprise refused to pay to the local pool. This resulted in a debt of 300

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<sup>77</sup> In 1995, the MOLSS promulgated the “Circular No. 6 State Council Resolution on Deepening Pension Reform for Enterprise Employees.” The Circular marked the starting point for the establishment of a multi-pillar pension system (Hu 2006, 12). This new system primarily consisted of a pay-as-you-go “social pooling” pillar and an “individual account” pillar. In the social pooling pillar, the contribution rates of employer varied around a national standard of 20%, of which 17% went to this first tier.

million RMB owed to the local pension fund between 1993 and 1998 (Zhao and Xu 1999; Saich 2004).

In 1998, the MOLSS started to call for unification of public pillar benefits. One of the major tasks was to transfer the industry-based pension funds over to provincial administration.<sup>78</sup> However, the prior industry-based pension system with lower contribution rates had complicated the process of setting up provinciaized pension funds (Frazier 2004, 55). As Frazier points out, most SOEs, benefiting from the industry-based pension system with lower contribution rates, were reluctant to join the geographic pool.

The slow process of transforming industry-based pools into provinciaized pension system reveals that the MOLSS lacked the power to force industry-based ministries to cooperate. The MOLSS became even weaker when many SOEs went bankrupt, privatized or corporatized in the late 1990s. Because the MOLSS was not equipped with policy tools for regulating the labor usage in non-state enterprises, the function of the Ministry was substantially eroded and its bureaucratic significance was largely reduced. As a retired official of a provincial Labor Department stated, “In the late 1990s, my major task was to help SOE laid-off workers to be re-employed. The Labor Department announced several policies including tax cut for non-state enterprises if they hired a certain rate of SOE laid-off workers. These policies, however, did not provide us with much power to regulate the non-state sector.”<sup>79</sup>

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<sup>78</sup> A new pension regulation, the “State Council Circular No. 26 Establishment of a Unified Basic Pension System for Enterprise Employees”, was promulgated. This regulation was largely influenced by recommendations from the World Bank (World Bank 1997). It requires provinciaization of pension funds and establishment of a unified pension system by 2000 on a national basis (Hu 2006, 13).

<sup>79</sup> Informal 36. Interview conducted in Changsha, Hunan on May 15, 2008.

Without strong relevance to the regulation of the non-state labor market at a time when employment in the sector already skyrocketed, the MOLSS lost the bureaucratic status which it used to enjoy before the SOE restructuring.

The situation has been changed since the 2000s. When labor disputes in the non-state sector were widely reported by Chinese media, the MOLSS, acting as a policy entrepreneur (Kingdom 1995), took the opportunity to claim its importance in protecting workers' rights through regulating the labor condition in the non-state sector. Speaking on behalf of the working class and promoting their labor rights strengthened the legitimacy of the MOLSS in the government. Moreover, the action of regulating the non-state sector enabled the Ministry to have a say in drafting China's general economic plan. As many researchers have recognized, the direction of China's labor regulations was naturally tied up in other issues of economic reform, including SOE restructuring and the development of private and foreign enterprises (Gallagher and Dong 2009). Protecting workers' rights became an uncontroversial standpoint when the Chinese leaders drafted the “Five-year Development Plan” (*wunien fazhan jihua*) every five years to mark the top goals of China's economic development. Until 2005, China had finished ten Five-year Plans since 1953.<sup>80</sup> In the “CCP Proposal of Making the Eleventh Five-year Plan for 2006-2010”, establishing a sound labor market in the non-state sector was a core issue.<sup>81</sup> In addition, the State Council issued the “Outline

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<sup>80</sup> Xinhua News Agency, March 22, 2006. <http://www3.xinhuanet.com/politics/zt20060322/xgbd.htm>

<sup>81</sup> Xinhua News Agency, October 18, 2005. [http://news.xinhuanet.com/politics/2005-10/18/content\\_3640318.htm](http://news.xinhuanet.com/politics/2005-10/18/content_3640318.htm)

of the Eleventh Five-year Plan for the Development of Labor and Social Security” in 2006 to support the MOLSS's action of regulating the non-state sector.<sup>82</sup>

Regulating labor conditions in the non-state sector helped the Ministry to participate in drafting the general direction of China's economic reform. Given that the MOLSS's major goal was to empower itself to regulate the non-state labor market in order to enhance its bureaucratic power, it only focused on making rules that facilitated this task. To intervene in the non-state labor market, the first step was to have all non-state enterprises to sign labor contracts with their employees. The new dismissal procedures also enabled the MOLSS to inspect the labor usage in the non-state sector. The rules promoting insiders' job security were thus put on the policy-making agenda. On the other hand, because the MOLSS's original purpose was not to promote workers' rights but to have a say in regulating the non-state labor market, outside workers' needs were selectively ignored, although a high degree of labor unrest was caused by their grievances.

The new labor policy reform also substantially brought more tasks, and hence more budget, into the Ministry. In order to achieve a full rate of labor contracting in the non-state sector, the Ministry needed to be equipped with more street-level inspectors to supervise managers' behavior. The MOLSS thus emphasized the importance of establishing local institutes for labor inspection all over the country. At the end of 2002, there were 3,223 local institutes for labor inspection established. The number of full-time inspectors was 19,000 in total.<sup>83</sup> The number of local institutes for

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<sup>82</sup> People's Daily, November 09, 2006, page 6.

<sup>83</sup> See 2003 Statistics on the Development of Labor and Social Security.

labor inspection was increased to 3,271 at the end of 2006, and the full-time inspectors became 22,000 persons.<sup>84</sup>

The increased number of local institutions and inspectors do not amount to better implementation of the labor contract system in the non-state sector. In fact, as many reports indicate, these new equipments were still not strong enough to combat enterprises' resistance.<sup>85</sup> But the recruitment of more labor officials itself still shows that promoting the usage of labor contract in non-state enterprises enhanced the role of the MOLSS in regulating the labor market. Before the policy of regulating the labor condition in the non-state sector was initiated in the 2000s, the bureaucratic power of the MOLSS mainly came from its regulation of SOEs. Regulating the non-state sector in the 2000s enabled the MOLSS to regain its bureaucratic importance in directing China's economic reform at a time when the employment in the non-state sector had been significantly expanded. Pursuing its own interests, the Ministry promoted the policies to regulate the labor condition in the non-state sector.

### ***3.3.2 The All China Federation of Trade Unions***

The ACFTU was another major actor promoting the regulation of the non-state sector. In China, trade unions operated more as an arm of the state bureaucracy than as workers' representative organization. The ACFTU, being a mass-representative organization (*qunzhong zuzhi*) for Chinese workers, is led and supervised by the

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<sup>84</sup> See 2007 Statistics on the Development of Labor and Social Security.

<sup>85</sup> Xinhua News Agency, February 03, 2010.

[http://news.xinhuanet.com/employment/2010-02/03/content\\_12924077.htm](http://news.xinhuanet.com/employment/2010-02/03/content_12924077.htm)



Communist Party. It situates in both the state and in society, and serves a dual-function role: that of state instrument and also of labor organization (Chen 2003). Firm-level trade unions are the messenger for the central government to reach into the working society at large, and to detect where potential labor unrest might come. The ACFTU's staff is recruited through national civil servant exams, and many of the positions require CCP membership.<sup>86</sup> In addition, the trade union system is a top-down bureaucratic structure. Firm-level unions are under the control of a local Federation of Trade Unions, and the local Federation of Trade Unions should follow the guidance of the Communist Party at the same level. For example, the trade union of an enterprise in Yiyang Municipality in Hunan Province is supervised by the Yiyang Federation of Trade Unions, and the Yiyang Federation is a mass-representative organization for the Party in Yiyang Municipality.

This is the fundamental reason why labor conditions were not significantly improved, while many enterprises already established trade unions. Most of these new unions only existed on paper and were extremely powerless in protecting workers' rights in practice. In many situations, grassroots trade unions' major role was not to bargain with managers, but to keep employment relations stable and harmonious. According to the 1992 Trade Union Law and the revised 2001 Trade Union Law, the function of a trade union in China is to “observe and safeguard the Constitution.” While unions are obliged to “express employees' viewpoints, negotiate with employers and propose a resolution,” they also have to help managers achieve better productivity,

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<sup>86</sup> For example, most positions of the ACFTU opened in 2008 required membership in the CCP or in the Communist Youth League. See *Renmin Wang* (People.com), October 23, 2007. <http://acftu.people.com.cn/GB/67560/6421820.html>

and to “resume production as quickly as possible while restoring work discipline” (2001 TUL, Article 27). Representing employees was merely a tool used to help maintain industrial peace and to stabilize labor-management relationship.

Accordingly, the ACFTU does not have significant concerns about managers' influence on these grassroots trade unions either. In fact, many of these unions are for all practical purposes subjected to management at the firm level. In the pre-reform era, the primary roles of unions were to allocate welfare benefits, mediate intra-firm disputes, and maintain production order (Taylor et al., 2003: 103-7; Cooney 2007, 681). SOE managers usually occupied senior positions in the firm-level unions. When employment relations became more market-oriented in the 1990s, these positions were still not fully controlled by workers. In some cases, even if the unions were not charged by managers, they were usually run by workers who had kinship ties with the managers,<sup>87</sup> although the 2001 TUL prevents relatives of management from running for election to firm-level union positions (2001 TUL, Article 9).

Being a quasi-bureaucracy of the state, the ACFTU cares less about workers' rights than its own bureaucratic power. In fact, the ACFTU is not interested in promoting workers' rights until it realizes that there is a need to do so for the purpose to maintain its bureaucratic status in the Chinese government. Similar to the Labor Ministry, the ACFTU lost much of its bureaucratic power in the mid-1990s due to the decreasing number of SOEs. Before the SOE restructuring, the ACFTU used to be very powerful in regulating China's labor market, through its firm-level branches within SOEs. Starting from the mid-1990s, privatization and corporatization of SOEs

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<sup>87</sup> Informant 27. Interview conducted in Beijing on April 25, 2008.

significantly eroded the importance of the ACFTU within the role of managing the industrial relation in the Chinese labor market. Without grassroots branches in most non-state enterprises, the ACFTU was not helpful for the Chinese government to achieve industrial harmony.

SOE restructuring not only reduced the relevance of the ACFTU in regulating the Chinese labor market, but also raised the question of whether the trade unions were an useful mechanism for the government to reach into the society. Before the mid-1990s, the widespread grassroots SOE trade unions made the ACFTU one of the most important mass-representative organizations for the CCP to control over the society. Starting from the mid-1990s, as the number of SOEs declined, the overall ACFTU membership also decreased. Table 3.2 demonstrates how union density was particularly low in the late 1990s.

Table 3.4 Trade Union Membership Densities in China

Year	Total (%)
1990	39.60
1996	29.25
2000	26.27
2001	32.50
2002	38.35
2003	41.47
2004	37.04
2005	39.80

Sources: Statistical Yearbooks of China, various years; Trade Union Statistical Yearbooks of China, various years, and the author's calculation.

When the ACFTU lost its wide coverage of workers, its importance for the Chinese state to control over the society and more importantly, to monitor non-party members also declined. As trade unions did not enjoy any representation in most non-state enterprises during the 1990s, the relevance of the ACFTU for maintaining social stability was significantly decreased. The ACFTU thus lost much of its importance in the Chinese political system.

The eroding status of the ACFTU gave a strong impetus for the officials of the organization to engage in activities to regain its importance. The most useful way to enhance its power was to re-emphasize its role as an important mass-representative organization to the Party, and to cooperate with the MOLSS to demonstrate its function as the major organization representing workers' voices within the bureaucracy. The ACFTU thus asserted that protecting workers' rights was its major obligation, and then actively engaged in initiating programs to regulate the labor market.

Similar to the MOLSS, the ACFTU was a direct winner of the movement of regulating labor conditions in the non-state sector. The increased number of ACFTU cadres above the firm-level gave the evidence that the bureaucratic status of the institution was increasingly enhanced, given that it received more quota of staff from the State Commission Office for Public Sector Reform. As Figure 3.3 reveals, in the years right after the 1997 SOE restructuring, the number of trade union cadres above the firm level, namely those in the Federations of Trade Unions at various levels of the Chinese administrative system, was the lowest. Starting from the 2000s, the ACFTU began to be equipped with more bureaucrats. In 2003, the number increased dramatically to a level that was much higher than before the SOE privatization. With

the campaign of organizing unions in the non-state sector, the ACFTU successfully strengthened its bureaucratic status.

Figure 3.3 Number of Trade Union Cadres above the Firm Level in China, 1995-2006



Source: Trade Union Statistical Yearbooks of China, various years.

The direct benefits for the ACFTU to work with the MOLSS to promote the labor contract system also came from the new power under the collective contract regulation. According to the 2007 LCL, employees may negotiate a collective contract with employers regarding matters of remuneration, work hours, breaks, vacations, work safety and hygiene, insurance, and benefits, as well as various other concerns (LCL, Article 51). Collective contracts are designed to be signed by trade unions on behalf of enterprises' employees. This requires the establishment of trade unions at the

firm level first, which again provides an important rationale for the campaign of organizing unions launched by the ACFTU. On December 5, 2007, the ACFTU held a press conference in Beijing to broadcast the LCL. Liu Jichen, the Minister of the Department of Legal Work of the ACFTU, openly condemned several countermeasures against the LCL.<sup>88</sup> In addition to using the new Law as the basis for the campaign for organizing unions, as one researcher points out, the ACFTU also sought to win for itself one of the measures of institutional and ideological legitimacy (Wang et al. 2009).

The ACFTU's campaign for organizing unions was highly supported by the Chinese top leaders because it also strengthened the autocrats' social control. The top leaders had publicly expressed their eagerness to establish unions on many occasions. In March 2006, the CCP General Secretary, Hu Jintao, voiced his support of the union organizing campaign in foreign enterprises in an official document, "Policy Analysis and Suggestion about the Unsuitability in Foreign Enterprises along the Coastal Cities" drafted by the Stability Maintenance Leading Small Group of the CCP. Hu's comments were thought of as a major contribution to Wal-mart's unionization.<sup>89</sup>

At the same time, organizing ACFTU branches was an alternative to allowing workers to form their own, independent trade unions. In China, independent unions were banned, and official documents seldom used the term, "collective bargaining." Instead, the government usually chose "collective negotiation" to describe the process of collective contracting. When I conducted my interview with a local official of a

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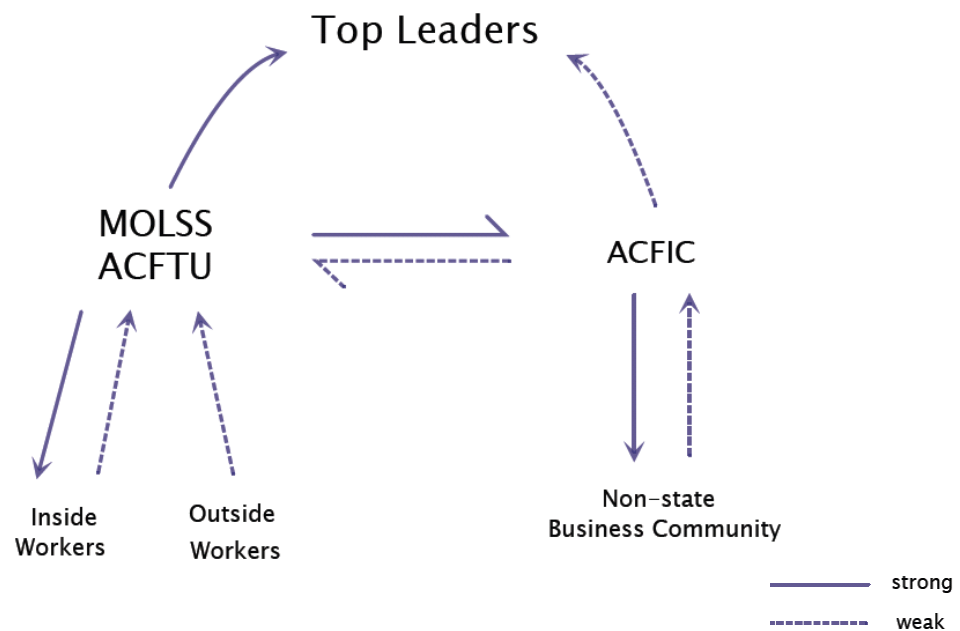
<sup>88</sup> See Wang et al. 2009.

<sup>89</sup> Lao Haiqing, "The Stability Maintenance Leading Small Group is Becoming More Important," South Daily (*Nanfang Ribao*), April 14, 2009. [http://opinion.nfdaily.cn/content/2009-04/14/content\\_5064810.htm](http://opinion.nfdaily.cn/content/2009-04/14/content_5064810.htm)

trade union federation, I was corrected several times for inappropriately mentioning the phrase collective “bargaining.”<sup>90</sup> For government officials, providing workers with the right of collective bargaining was less desirable than establishing firm-level ACFTU branches to handle collective negotiation.

Based on these discussions, we identified the incentive structure of different actors in the labor policy-making process. Their relations are illustrated by Figure 3.4.

Figure 3.4 Labor Policy-making at the Central Level



Note:

MOLSS: Ministry of Labor and Social Security

ACFTU: All China Federation of Trade Unions

ACFIC: All China Federation of Industry and Commerce

<sup>90</sup> Informant 30. Interview conducted in Tianjin on March 25, 2008.

In the process of making the pro-labor regulations, both inside and outside workers had strong grievances to push the MOLSS and the ACFTU to make policies protecting their labor rights. But these demands were not influential to shape the direction of reform because on the one hand, workers were not able to represent themselves in the government and on the other hand, the intensive intra-competition within the working class for jobs has substantially eroded their collective identity to fight against the government (Gallagher 2002). Most labor protests today were all cellular, lacking a larger regional base of organization (C. Lee 2007). Cross-factory labor movements were very rare in China. For outside workers, collective actions were even more difficult because geographical mobility of most unskilled workers was extremely high. These all impeded the working class to form strong alliance to pass their demands to the government.

However, from the viewpoint of the supply side, we see that the MOLSS and the ACFTU still voluntarily launched the pro-inside worker policy reform. This is because the two bureaucracies found that supplying this new policy could enable them to regulate the non-state labor market and hence was useful in enhancing their bureaucratic power. Outside workers' demands were left out in the policy making because the two bureaucracies' major goal was to have a say in regulating the non-state labor market and they did not find that supplying policies responsive to outside workers was helpful to achieve this purpose.

On the other hand, businessmen in the non-state sector also had strong grievances to delay the pro-labor policy reform. However, as will be discussed in the next section, these demands were unsuccessful in lobbying the central bureaucracies



due to the fragmentation of China's business associations. In addition, while the business community opposed the pro-labor policy, they were more desperate to block the actual implementation of the reform in their enterprises than to put efforts in the national policy-making process. This is because it would be more efficient to directly intervene in the process of how their own enterprises were actually inspected by local governments than to pressure the central government to alter the reform direction due to the externalities of changing a national policy. As a matter of fact, the pressure that the central government needed to face from the non-state business community was not particularly intense.

But from the supply side, some bureaucracies, especially the All China Federation of Industry and Commerce (ACFIC), were motivated by the desire to demonstrate their ability to foster the development of the non-state sector, and thus were eager to delay the making of pro-labor policies in order to help non-state enterprises. This empowered the grievances of the non-state business community to be heard in the policy-making process. However, when competing with the MOLSS and the ACFTU, the ACFIC lost the game and were unable to stop the pro-labor policy reform. As the next section will demonstrate, the ACFIC was traditionally less powerful than the ACFTU, and the bureaucratic structure of the ACFIC was highly fragmented. This hindered the ACFIC's ability to delay the reform.

As for Chinese top leaders, their major concern was to maintain regime stability. Due to the lack of a regular mechanism to clearly tell them which social voice posed the most serious threat to the government, top leaders essentially wanted to buy off the support of all kinds of social forces. But when the MOLSS and the

ACFTU along with inside workers achieved socio-bureaucratic synergy, they defeated the alliance of the ACFIC and the non-state business community in the central labor policy reform process. They successfully persuaded the top leaders to regulate the non-state sector. The outcome was the promulgation of several pro-labor policies in the 2000s.

Accordingly, in the 2000s reform, the Chinese autocrats sounded more willing to compromise with the working class than with the business community. This was a result of the fact that there were important bureaucracies in the governing structure seeing representing workers' voice beneficial to enhancing their bureaucratic power. This argument provides an answer to why the pro-labor reform was launched when most of the nation's economic growth and employment opportunities were still largely contributed by non-state labor-intensive industries. In the next section, I will discuss the role of the bureaucracies in charge of the non-state sector's development in the reform process.

### **3.4 Negative Case: Social Voices Who Lose:**

#### **The Weak Political Leverage of Non-state Enterprises**

While regulating the non-state sector was highly praised by pro-worker voices, they encountered resistance in the business community. But the voice of non-state enterprises was not powerful enough to change the policy direction. Why did workers' grievances seem to be more influential than those of the business community in the

process of making these policies? How could the Chinese government successfully defeat the grievances of non-state enterprises against the reform?

As the last section discussed, the MOLSS and the ACFTU worked together to make policies to expand the labor rights which most SOE workers had already enjoyed to non-state workers. The voices of the working class in these enterprises were thus “represented” by the bureaucracies, and hence became influential in the policy-making process. The socio-bureaucratic synergy between the two labor bureaucracies and inside workers gave a way for the latter's voices to be heard, even if they were not able to represent themselves in the government. This section follows the Possibility Principle introduced by Mahoney and Goertz (2004) to conduct a negative case study on how non-state entrepreneurs lost the battle against the pro-labor reform. By contrasting the weak political leverage of non-state entrepreneurs with the positive case of my study, namely the stronger voice of the working class in the government's policy-making process, this dissertation will illustrate that only those social voices whose preferences are the same as some strong bureaucracies in the government can become critical to the policy outcome.

The inability of non-state enterprises to change the policy direction serves as an important negative case for the dissertation. According to the Possibility Principle, only cases where the outcome of interest is possible should be included in the set of negative cases (Mahoney and Goertz 2004). In the 2000s, the non-state sector was already a critical source of economic growth and employment in China. However, the increasing importance of the non-state sector to China's economic and employment development did not provide these enterprises with more political leverage in the

government's economic policy-making. On the contrary, non-state enterprises were generally powerless in directing the government's economic policies, although they were outspoken in many situations. In the following discussion, I will demonstrate that unlike the MOLSS and the ACFTU, who aimed to promulgate regulatory policies to enhance their bureaucratic power, and hence acted as government agencies to represent the voice of inside workers, non-state enterprises did not have such powerful bureaucracies which wished for the same policy outcome, that is, delaying the pro-labor campaign. This answers the question of why voices from non-state enterprises were not influential in the policy-making process.

In China, the government agencies that were in charge of issues related to the development of non-state enterprises included the State Administration for Industry and Commerce (*guojia gongshang xingzheng guanli zongju*, SAIC), and the then Department of Small and Medium-Sized Enterprises (DSME) in the National Development and Reform Commission (NDRC).<sup>91</sup> I will illustrate that none of these bureaucracies shared the same policy preferences as non-state enterprises. That is to say, there was no socio-bureaucratic synergy between these government agencies and the non-state business community. These bureaucracies did not act on behalf of enterprises in the labor policy-making process. In the Chinese ruling structure, the only quasi-bureaucracy that acted on behalf of non-state enterprises was the All China Federation of Industry and Commerce (ACFIC). But as this section will indicate, the ACFIC was not powerful enough to put its preference on the government's policy-

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<sup>91</sup> In 2008, the DSME was moved from the NDRC to the Ministry of Industry and Information Technology.

making agenda. Given that there were no strong bureaucracies wishing for the same policy outcome as the non-state business community, the resistance from non-state enterprises could not defeat the pro-labor policies that were supported by the MOLSS and the ACFTU in the 2000s.

### ***3.4.1 SAIC and NDRC***

As the last section indicated, bureaucracies do not have the same interests as their supervised social actors. For the MOLSS and the ACFTU, their major goal is to enhance their bureaucratic power. But government officials' desire to enhance their bureaucratic power can sometimes drive them to be a “bureaucratic representative” for the social groups under their supervision. This is to say, although bureaucracies and their governed social actors have different interests, they might share the same policy preference and wish for the same policy outcome. From this point of view, when examining the bureaucrats that are likely to speak for non-state enterprises, we should include all the bureaucracies that supervise or control over the development of the non-state sector to see if these officials have a preference for acting on behalf of non-state enterprises for the purpose to enhance their bureaucratic power.

In China, one of the major bureaucracies in the central government involving the development of the non-state sector is the State Administration for Industry and Commerce (SAIC). According to the “Provisional Regulations for Private Enterprises” issued by the SAIC in 2000, private enterprises need to register with the SAIC to receive their licenses (Article 15). However, as discussed, being the supervisor of

these enterprises does not mean that the SAIC has the same interest as their governed private enterprises. The major function of the SAIC is about market supervision and management, and its bureaucratic power does not come from the flourishing development of the non-state sector. At the same time, enterprises seldom go to the SAIC for help when there is an issue coming up.<sup>92</sup>

While the SAIC was not an institution to reflect non-state entrepreneurs' grievances, some policies made by the SAIC can still be preferred by non-state enterprises. For example, to facilitate market competition, the SAIC was one of the major promoters to implement anti-monopoly regulations. In 2005, when the State Council issued the first national regulation in the PRC history regarding the promotion of the non-state sector, namely “Some Opinions about Encouraging, Supporting, and Guiding the Economic Development of the Non-state Sector”,<sup>93</sup> the SAIC announced the “Notice about Exercising the Function of Administration for Industry and Commerce to Promote the Non-state Sector such as Private Enterprises” to encourage private enterprises to participate in some monopolistic industries including telecommunication, petroleum, and aviation. In addition, the Department for Regulation of the Private Economy (DRPE) in the SAIC drafted the “Opinions about Further Promoting the Development of Private Enterprise” in 2009 to support laid-off workers and college students to establish small- and medium-sized private enterprises.

Although these policies were all helpful for the development of non-state enterprises, promoting the non-state sector's interests is not the SAIC's task. The focus

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<sup>92</sup> Informant 45. Interview conducted in Guangzhou, Guangdong on June 03, 2008.

<sup>93</sup> This document is usually abbreviated as the “Thirty-six Regulations about the Non-state Sector”.

of the SAIC is to make sure fair market competition, such as the promotion of property rights rules.<sup>94</sup> It does not see reflecting the grievances of non-state enterprises as a way to enhance its bureaucratic power. In fact, in the labor policy-making process in the 2000s, the SAIC was not an opponent of the pro-labor policies. As one official in a local Labor Bureau stated, “the Industry and Commerce Bureau sometimes works with us together to inspect illegal employment service companies who had claimed to help workers to match up with jobs but actually cheated on them.”<sup>95</sup> At the national level, the MOLSS, the SAIC, and the Ministry of Public Security also worked together sometimes. For example, they had several inter-ministerial projects on the maintenance of the order and stability of China's human resources market.<sup>96</sup>

Based on the discussion, we see that the SAIC is not a “representative” for non-state enterprises in the labor policy reform. On the demand side, the SAIC is not an institution with which non-state entrepreneurs usually contact to express their grievances about a government policy. On the supply side, the SAIC's major task is to promote fair market competition. It does not focus on promoting the interests of non-state enterprises. Accordingly, there was no socio-bureaucratic synergy between the SAIC and non-state enterprises in the labor policy-making process in the 2000s.

Another government institution related to the non-state sector's development is the Department of Small- and Medium-Sized Enterprises (DSME) in the National Development and Reform Commission (NDRC). To promote the development of the non-state sector, along with the SAIC, the DSME in the NDRC was another drafter of

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<sup>94</sup> For the SAIC's task on property rights protection, see Mertha 2005b.

<sup>95</sup> Informant 34. Interview conducted in Yiyan, Hunan on May 23, 2008.

<sup>96</sup> China Economic Net. [http://www.ce.cn/xwzx/gnsz/zg/201004/23/t20100423\\_21316763.shtml](http://www.ce.cn/xwzx/gnsz/zg/201004/23/t20100423_21316763.shtml)

the aforementioned 2005 “Some Opinions about Encouraging, Supporting, and Guiding the Economic Development of the Non-state Sector”. But the NDRC is not a bureaucracy that always acts on behalf of the non-state sector. The NDRC is a macroeconomic management agency having broad administrative and planning control over the Chinese economy. In the State Council, the NDRC stands above those ministries whose major task is to supervise a particular sector or social group such as the MOLSS. Many of these ministries involve themselves in lobbying activities with the NDRC for preferential policies, and the NDRC needs to keep balance between the different interests of these ministries. In some situations, the NDRC will make policies that favor a particular sector as a function of these ministries' lobby, but the NDRC is not established to represent the particular sector. Its major function is to formulate policies for the country's general economic and social development. The bureaucratic power of the NDRC does not come from representing a particular economic sector, such as non-state enterprises. Accordingly, while the NDRC was a powerful institution, the NDRC did not have an incentive to act on behalf of the non-state sector to delay the pro-labor policies in the 2000s. There was no socio-bureaucratic synergy between the non-state sector and the NDRC.

### ***3.4.2 The All China Federation of Industry and Commerce***

The All China Federation of Industry and Commerce (ACFIC) is a bureaucracy whose political status is much more closely related to the development of the non-state sector than the SAIC and the DSME in the NDRC. Similar to the



ACFTU's role as a mass-representative organization to supervise the working class, the ACFIC was established by the CCP in 1953 to reach into the business society. In the reform period, the major composition of the ACFIC membership is non-state enterprises.<sup>97</sup> Performing the dual function of representing businessmen to the government and empowering the government to control over non-state enterprises, the ACFIC is led by the CCP and is a member of the People's Political Consultative Conference (PPCC). Same as the ACFTU, the ACFIC's staff enjoys a bureaucratic status of civil servant.

Many studies have found that the ACFIC functions less as a representative to express enterprises' opinions than as an institution to pass on information regarding government policies to its members. According to a report conducted by the Asian Development Bank in 2002, for most businessmen, the major function of the ACFIC and its local branches was to help understand government policies (ADB 2002, 26). Expressing members' interests was not the focus. Overall, ACFIC's emphasis remained on the liaison between the government and the business community, with only a secondary concern for providing direct services to its members (ADB 2002, 50).

Being a quasi-governmental institution, the ACFIC struggled to enhance its political status and bureaucratic power as the ACFTU did. To achieve this goal, the ACFIC made efforts to promote the development of the non-state sector and to delay the expansion of the labor contract system in the process of the labor policy reform in the 2000s. For example, the ACFIC urged the government to postpone the

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<sup>97</sup> See the official website of the ACFIC.  
<http://www.acfic.org.cn/publicfiles/business/htmlfiles/qggsl/gsljj/index.html>

implementation of the LCL in the annual meeting of the PPCC.<sup>98</sup> Some members of the ACFIC also spoke directly to the MOLSS that the clauses in the LCL with regards to non-fixed-term labor contracts are too rigid and will reduce small- and media-sized enterprises' competitiveness.<sup>99</sup>

The ACFIC, however, was much weaker in putting its preferences on the government's policy-making agenda. The low political leverage of the ACFIC can be illustrated in its relationship with various Industrial Chambers of Commerce (*hangye shanghui*, ICCs). At first glance, being the mass-representative organization for the business society, the ACFIC should be the supervisor of these Chambers, just as the ACFTU being the only representative for workers. But in fact, the ACFTU had very vague legal relationships with these organizations, no matter whether they were established from top by the ACFIC or were voluntarily organized by non-state enterprises themselves. Unlike the relationship between the ACFTU and its local branches at different levels, the ACFIC did not enjoy the legal right to supervise these non-state enterprises' ICCs. Several government regulations prevented the ACFIC from being the supervisor of these ICCs. In 1978, the State Council announced the "Regulation on the Registration and Management of Social Organizations", and established the pattern of dual supervision of social organizations: a social organization should first register with the Ministry of Civil Affairs (MOCA) to be granted the status of social legal person, and then a central ministry of the State Council which is in charge of the profession will directly administer the organization.

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<sup>98</sup> Xinmin News, March 05, 2009. <http://sh.xinmin.cn/shizheng/2009/03/05/1667079.html>

<sup>99</sup> People.com, March 08, 2008. <http://cppcc.people.com.cn/GB/34961/116691/116700/6972428.html>

Because the ICCs are one kind of social organizations, each of them is supervised both by the MOCA and a central ministry which is in charge of the industry. The ACFIC does not have the legal power to oversee them.

Having no direct control over these ICCs, the ACFIC could not function as an important organization for the CCP and the central government to reach into the business society. Facing this problem, starting from the early 2000s, many ACFIC officials at various levels publicly urged the State Council to make the ACFIC one of the supervisors of these Chambers. For example, in Zhejiang Province, a place with the most flourishing development of private enterprises, a report was made to call for integrating the ICCs into ACFIC's supervision. The ACFIC usually cited the “Organizational Principle of the ACFIC” promulgated in 1952 by the then Government Administration Council (*zhengwuyuan*, now the State Council) as the evidence that the ACFIC still retained the right to form ICCs (Article 11 of the 1952 Principle). These requests were also justified by the discourse that the ACFIC should serve as the bridge of the government and the non-state sector. If the ACFIC was not one of the supervisors of the ICCs, the function of united front (*tongzhan*) could not be carried out. In addition, the ACFIC had also emphasized its role of representing Chinese enterprises when interacting with foreign Chambers of Commerce since China's participation in the World Trade Organization (WTO). In 2002, the ACFIC revised its “Constitution of the ACFIC” and Article 24 states that the ACFIC has the right to establish ICCs in different industries at all levels, and these ICCs are to be

overseen by the Federation of Industry and Commerce at the same level.<sup>100</sup> These efforts made by the ACFIC, however, were not very successful in achieving the goal.

The ACFIC's struggle to integrate the various ICCs encountered enormous difficulties in 2000 when the MOCA announced the "Notice of Re-affirming the Administration of Social Organizations". In this Notice, the ACFIC is not granted the right to become a supervisor of any social organizations. According to Article 4 of the Notice, there are twenty-two government agencies or mass-representative organizations which enjoy the power to administer social organizations in their own professions. Among these mass-representative organizations, the ACFTU, the All-China Women's Federation, and the Chinese Communist Youth League are all listed as the legal supervisors, but the ACFIC is not. This Notice significantly reduced the political importance of the ACFIC in regulating non-state enterprises. According to a report conducted in Hangzhou Municipality in Zhejiang Province, among the 143 local ICCs established by the Hangzhou Municipal Federation of Industry and Commerce (MFIC), only less than 10 ICCs had received the approval of the status of social legal person from the Hangzhou Municipal Bureau of Civil Affairs (MBCA). In many localities, the local Bureaus of Civil Affairs openly rejected the request by the local Federations of Industry and Commerce for the right to supervise local ICCs. In Shaoxing Municipality in Zhejiang Province, for example, in 2004, the MFIC filed an official petition to the MBCA for administering the ICCs.<sup>101</sup> In the petition, the MFIC

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<sup>100</sup> See the official website of the Foshan MFIC in Guangdong Province.  
<http://www.fsgcc.com/fsgcc/aboutus/zhangcheng.htm>

<sup>101</sup> See the official website of the Zhejiang Political Consultative Conference.  
<http://www.zjszx.gov.cn/detial.asp?id=1196&kind=%CE%E5%BD%EC%B6%FE%B4%CE%CC%E1%B0%B8>

mentioned the 2002 “Constitution of the ACFIC” to justify its petition. The Shaoxing MBCA rejected the request via citing the “Zhejiang Provincial Notice of Re-affirming the Administration of Social Organizations”, which excludes the role of the MFIC as an administrator of the ICCs.<sup>102</sup> Obviously, the MBCA did not recognize the legal status of the 2002 ACFIC Constitution in this reply.

In 2009, the ACFIC was finally granted the right to supervise the various ICCs, when the Ministry of Civil Affairs issued the “Notice of the State Council's Authorizing the ACFIC to Administer National Social Organizations.” This Notice was regarded by the ACFIC as the evidence that the central government started to pay attention to the role of the ACFIC in regulating the ICCs. As Quan Zhezhu, the Vice-chair of the ACFIC, said in an ACFIC meeting in Beijing in July 2009, “with the MOCA's guidance, this Notice recognizes the ACFIC's importance.”<sup>103</sup> However, a closer look at the Notice reveals that some articles will actually erode the ACFIC's political status in representing the business society. According to the Notice, all the ICCs which were established by the ACFIC need to register with the MOCA within two years. Those who fail to register will be disbanded. In practice, when those ICCs began to contact with the MOCA to register, they also tried to build connections with many other ministries in the government to see if these government could serve as their supervisors. Losing many ICCs significantly reduced the importance and influence of the ACFIC's role in regulating non-state enterprises.

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<sup>102</sup> See the official website of the Zhejiang Political Consultative Conference.  
<http://www.zjsxzx.gov.cn/detial.asp?id=1196&kind=%CE%E5%BD%EC%B6%FE%B4%CE%CC%E1%B0%B8>

<sup>103</sup> See the official website of the China Trade Associations and Chambers of Commerce.  
<http://www.chinaassn.com/html/2009727/200972714195125.html>

The ACFIC's fighting against the Ministry of Civil Affairs reveals its weak political leverage in the Chinese political system. The delayed process of integrating the ICCs significantly eroded the ACFIC's function as a mass-representative organization for the CCP to control over the business society. In addition to the relationship with the ICCs, the bureaucratic status of the ACFIC was even more severely eroded when we take into consideration the existence of various Industrial Associations (*hangye xiehui*; IAs) and the ACFIC's inability to control over them.

In China, Industrial Associations (IAs) are different from the Industrial Chambers of Commerce (ICCs) in the sense that the establishment of the IAs is a direct result of China's government restructuring to separate enterprises from the government (*zhengqi fenli*). These IAs evolve from previous industry-based ministries, and now have close financial relationships with the State-owned Assets Supervision and Administration Commission (SASAC) in the central government. For example, the Petroleum and Chemical Industry Association is developed from the Ministry of Chemical Industry. In 1997, when the government restructuring resulted in the abolition of the Ministry, the Petroleum and Chemical Industry Association was established right away to “represent the industry” according to its official statement. In practice, the goal was to provide the cadres and staff in the Ministry with new positions in the IA. The function of the IA, however, substantially overlaps that of the Chamber of Commerce for the Petroleum Industry, which is organized by non-state enterprises and approved by the ACFIC in December 2004.<sup>104</sup> In some other cases,

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<sup>104</sup> See the official website of the China Chamber of Commerce for Petroleum Industry. <http://www.cccpi.org/about.asp?ArticleID=11083>

even if there are no previous industry-based ministries, current ministries may also engage in establishing IAs under their own supervision. For example, the China Real Estate Association is overseen by the current Ministry of Housing and Urban-Rural Development. The existence of the Association significantly affects the importance of the China Real Estate Chamber of Commerce.<sup>105</sup>

For the ACFIC, the existence of the IAs is a threat to its power, because the ACFIC has no legal as well as no practical ties with any IAs. In general, the ACFIC wants to eliminate the role of the IAs in regulating the industries. The battle between the IAs and the ICCs becomes more intense when the number of ICCs significantly increases. By 2000, there were only fifteen ICCs at the national level. In 2005, the number increased to twenty-eight. To counter the development of ICCs, the IAs fiercely opposed the ACFIC's campaign for integrating the ICCs, because the integration of the ICCs into the ACFIC could provide both the ACFIC and the ICCs with more legitimacy. The IAs' proposal was usually quite successful. As one Chinese newspaper reports, the opposition from one of the most powerful IAs, the China Federation of Industrial Economics (CFIE), severely hindered the ACFIC's integration process.<sup>106</sup>

Traditionally speaking, the ACFIC is already much weaker than the ACFTU. In China, the most powerful mass-representative organizations are the ACFTU, the All-China Women's Federation, and the Chinese Communist Youth League. The three organizations have enjoyed much higher political status than the ACFIC due to the

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<sup>105</sup> See the official website of the China Real Estate Chamber of Commerce. <http://www.chinahouse.info/old/CRECC/index.asp>

<sup>106</sup> China Business Times, April 15, 2008. <http://www.ykgsi.com/jingji/18.htm>

socialist ideology. More importantly, the Chairman of the ACFTU is always a member of the CCP Politburo, while the Chairman of the ACFIC is not. For example, the current Chairman of the ACFIC, Huang Mengfu is only the Vice-chairman of the People's Political Consultative Conference, and is even not a member of the CCP Central Committee, let alone the CCP Politburo. This significantly affected the bureaucratic power of the ACFIC in China's central-level policy-making process.

The low bureaucratic status of the ACFIC led to the weak political leverage in comparison with the ACFTU in the labor policy-making in the 2000s. Being a quasi-governmental institution, the ACFIC had the preference to enhance its bureaucratic power and prestige through promoting the development of the non-state sector and delaying the promulgation of rigid labor market rules. The weak political status of the ACFIC, however, hindered the crystallization of this preference. In the process of making the pro-labor policies, the ACFIC lacked strong bureaucratic status to fight against the MOLSS and the ACFTU to put non-state enterprises' requests on the agenda. At the same time, the existence of the various IAs and ICCs also reveals that China's regulation of the non-state sector was much more fragmented than that of the working class. The fragmented organizational nature of the ACFIC inhibited a consolidated voice to be heard in the central labor policy-making process. The general direction of the pro-labor policies could not be changed.



### 3.5 Conclusion

This chapter conducts a positive and negative case analysis on China's regulation of the labor condition in the non-state sector in the 2000s. I find that when the MOLSS and the ACFTU saw regulating the workforce in the non-state sector as a way to regain their bureaucratic power, the social grievances from inside workers could be heard in the labor policy-making process. On the other hand, my negative case study shows that in China, non-state entrepreneurs were unable to transform their wealth into political influence in the pro-labor reform, because there were no strong bureaucracies acting on behalf of the non-state sector and fighting against the MOLSS and ACFTU. This provides the answer to why the state-led pro-labor policy could defeat the resistance from non-state labor-intensive industries.

Therefore, socio-bureaucratic synergy determines the path of China's labor policy reform. For bureaucracies, when they regard “representing” the grievances of some social voices as a useful way to enhance their bureaucratic power, they are likely to act on behalf of these voices and to make policies whose outcome favors these voices. For social actors, they do not have any direct delegation in the government, although the government-society relations in China are no longer suppressive today. In general, social voices still have no regular avenues to express themselves. The channel is only open when some bureaucracies are willing to do it. Accordingly, having a bureaucracy in the government willing to act on behalf of them is a prerequisite to have a say in the policy-making. When some bureaucracies wish for the same policy

outcome as a social force, although for different reasons, we say that the bureaucracies and the social voice achieve socio-bureaucratic synergy in the policy-making process.

This chapter also reveals that Chinese bureaucracies and social forces might not always be confrontational. They could sometimes have the same policy preference, although for different reasons. But I also disagree with the assumption of equating the interest of bureaucracies with that of the social forces supervised by these bureaucracies. Chinese bureaucracies have their own interests which are better to be understood by their organizational features, historical status, and officials' career concerns. Social actors are not the constituents of Chinese ministries. The theory of socio-bureaucratic synergy illustrates a top-down decision making style. In China, the policy-making is not driven by how social forces seek for being represented by bureaucracies in order to be integrated into the decision making process, but by how bureaucracies take advantage of social forces to enhance their political status.

## **Chapter Four**

### **The Implementation of the Labor Contract System at the Provincial Level:**

#### **Case Studies on Beijing, Hunan, and Guangdong**

Central-local relations provide another example to examine the internal politics during the state's labor policy-making. The previous chapter discussed how central bureaucracies made use of social grievances in the process of regulating the non-state sector. This chapter will analyze how the central reform was perceived by local governments, and what accounts for the variations of local implementation. Particularly, based on the last chapter's conclusion, this chapter will discuss the incentive structure of regional political elites in implementing the pro-labor policy reform. Through the investigation of three provincial-level governments, namely Beijing Municipality,<sup>107</sup> Hunan Province, and Guangdong Province, I will demonstrate that local officials' bureaucratic interests to stay more powerful in the localities as well as their political aspirations to be promoted to the central government had significant impacts on local labor policy outcomes.

This chapter focuses on China's provincial-level governments.<sup>108</sup> The reason to choose provinces as the unit of analysis of my study is twofold. First, provincial governments determine plans, personnel, and budgets for policy implementation at all local levels within the provinces (Chung 2000, 18). The attitudes of provincial

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<sup>107</sup> Beijing is a direct-controlled municipality. Its administrative status is provincial.

<sup>108</sup> See Appendix 4.1 for the administrative rank of provinces in China.

governments are critical to the actual formation of local responses to a central policy. This importance has been reinforced by the trend of “soft centralization” designed by the central government to defeat local protectionism and to achieve a greater degree of standardization of policy enforcement. For example, since the late 1990s, authorities over the quantity of personnel appointments of many administrative regulatory bureaucracies at the township/county level have been centralized to provincial governments (Mertha 2005). This new development is summarized into the reform of “having the province supervise the county” (*sheng guan xian*). Under this reform, provincial-level governments' influences on grassroots policy implementation are significantly strengthened.

Second, the study on provincial-level governments facilitates our understanding of how government officials deal with their local interests under the supervision of the central government. As the following discussion will illustrate, China's administrative decentralization enabled provincial officials to implement the labor contract system in ways that dovetail with their own concerns at the regional level. These concerns include bureaucratic interests in the provincial government, and the interaction with workers as well as with the business community in the province. However, the principle of “implementation according to local conditions” (*yindi zhiyi*) does not amount to a situation where the central government has no role in local policy implementation. Under authoritarianism, China's provincial officials are directly overseen by the central government through its cadre management system. Being the intermediaries between the central government and various levels of local ones,

provinces are the direct site to investigate how local officials respond to administrative decentralization and political centralization concurrently.

The chapter is divided into four sections. Section one illustrates the different patterns of local implementation of the labor contract system in Beijing, Hunan and Guangdong. Through the examination of the quality of provincial labor regulations, as well as the actual labor contract signing rate and trade union organizing rate, I identify the three regions' different degrees of labor regulatory rigidity. Section 4.2 investigates the grievances from the working class and the business community in the policy implementation processes of the three regions. Section 4.3 analyzes the three cases and discusses the provincial officials' political and bureaucratic incentives behind the regulation of the labor market. Based on the three case studies, I generate two hypotheses to be tested in the next chapter. The chapter's conclusion is provided in the fourth section.

#### **4.1 Patterns of Labor Policy-making at the Provincial Level**

The central policy of expanding the labor contract system to the non-state sector needs local governments' cooperation in practice. In China, provincial governments are entitled to promulgate measures, opinions, and rules to facilitate the implementation process. Similar to the structure of the central government, the bureaucratic status of Provincial Departments of Labor and Social Security (PDLSS) and Provincial Federations of Trade Unions (PFTU) in most provincial-level regions is much higher than that of Provincial Federations of Industry and Commerce (PFIC).

But unlike the central government, provincial officials face stronger demands from workers as well as businessmen. Workers' grievances are one of the major concerns of the provincial governments because most labor protests remain at the local level and seldom target the central government. Moreover, in a country where keeping a high level of social stability is one of the most important criteria for the central government to evaluate local officials, China's provincial governments usually have deep concerns about remedying workers' grievances before they deteriorate into unrest.

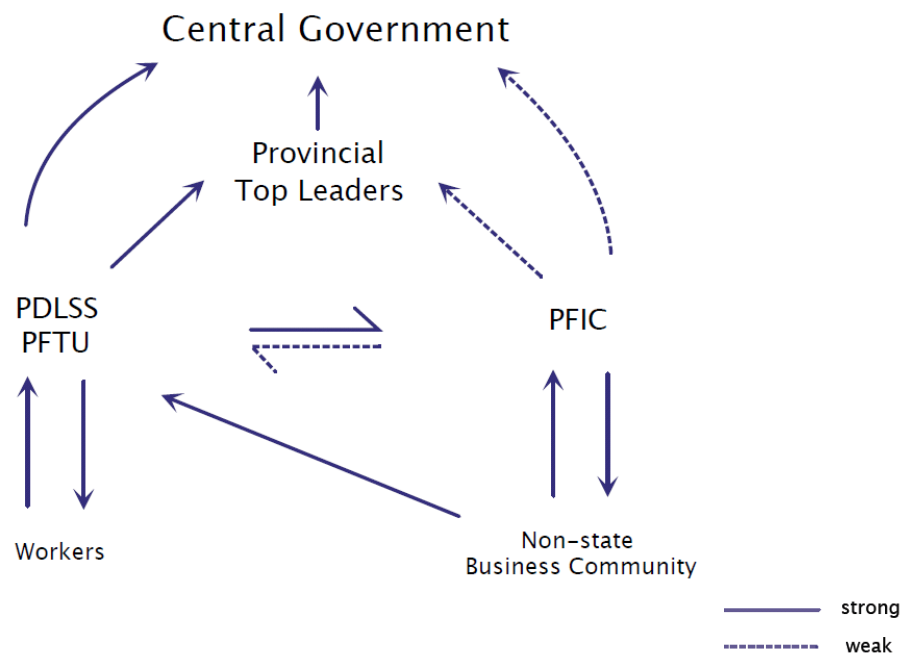
At the same time, unlike the weak political leverage of the non-state business community in the central labor policy-making, enterprises are more influential at the provincial level, because these businessmen are more desperate to block the actual implementation of the pro-labor reform in their own enterprises than to delay the promulgation of national policies.<sup>109</sup> The externalities of changing the content of a national policy results in businessmen's unwillingness to lobby the central government. For them, it is more efficient to directly intervene how their own enterprises are actually inspected by the local governments than to pressure the central government to alter the direction of a national law. The non-state business community are thus more eager to empower themselves to overcome the collective action problem to lobby local officials. In addition to exerting their influences over the PFIC, the business community may also try to lobby the PDLSS, the PFTU and even provincial top leaders. When local officials face strong pressure from the business community, their economic interests may triumph over the political and bureaucratic incentives, if the chances to be promoted or to stay more powerful in the local government are low. In

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<sup>109</sup> Informant 47. Interview conducted in Guangzhou, Guangdong on June 10, 2008.

this situation, local officials might choose to speak for the business community to promote labor market flexibility, and hence the implementation of the labor contract regulation is likely to be delayed. In other scenarios, if officials are strongly guided by their political or bureaucratic interests, they will tend to make efforts to build a more robust labor regulatory regime. Figure 4.1 illustrates the basic logic of provincial labor policy-making.

Figure 4.1 Labor Policy-making at the Provincial Level



Note:

PDLSS: Provincial Department of Labor and Social Security

PFTU: Provincial Federation of Trade Unions

PFIC: Provincial Federation of Industry and Commerce

As a mediator between the central reform principles and grassroots implementation, most provincial governments seldom publicly announced any policies that explicitly rejected the central plan of regulating the labor market in the 2000s.

However, there were significant variations in the willingness and ability of these provincial governments to implement the reform. This chapter conducts case studies on a small number of provincial-level regions to have a grasp of the population of all Chinese provinces' labor policy implementation. The primary objective of this study is oriented toward hypothesis generating rather than testing. To select cases for this task, I employ a diverse-case-selection strategy (Gerring 2006, 97-101) to achieve maximum variance along my dependent variable (also known as Y), namely the degree of provincial efforts in responding to the central reform of regulating the labor condition in the non-state sector. These case studies will generate hypotheses about how provincial officials' different interests have influenced their reactions to the central labor reform agenda. The conclusion shall provide a foundation for my hypothesis testing in the next chapter.

To differentiate the degree of provincial-level governments' labor policy implementation, this study first focuses on government regulations. While a labor market is not only regulated by written laws (Regini 2000), the regulations and administrative activities initiated by local governments directly reveal how these governments perceived the central reform principles. In China studies, collecting government directives or party documents to examine the decision-making process is not a rare approach. As early as in the 1970s, Lieberthal and his assistants investigate the “Central Documents” (*chung fa*) issued by the CCP to understand the politics and political decisions within the Chinese Politburo, when these top leaders' meetings are not open to the public (Lieberthal 1978). At the regional level, in the 2000s, the legislative processes of most Chinese provincial regulations are still clandestine, much



less open than that of national laws in the central government. Top provincial leaders, the Director of PDLSS and the Chairman of PFTU usually enjoy the ultimate influence over how provincial labor regulations are drafted. Unlike the 2007 LCL whose first version was publicized for social feedback, many provincial labor regulations were directly announced by the PDLSS and had never been put on the discussion agenda of the Provincial People's Congresses.

This regulation-making practice is categorized by scholars as “departmental legislation” (*bumen lifa*). Departmental legislation has been reported as a serious problem in China's regulatory structure. Similar to most other countries, the administrative departments in China are the major drafter of most laws, and have the discretion to promulgate administrative decrees which do not need to be considered by the legislative branch. However, many administrative departments in China have taken advantage of this discretion to make enormous administrative decrees, including Provisions (*guiding*), Interim Provisions (*zhangxing guiding*), Circulars (*tongzhi*), Opinions (*yijian*) Measures (*banfa*), and Implementation Details (*shishi xize*), that appear to supplement national laws, but in fact help maximize their bureaucratic power in the law implementation processes. Sometimes, even if regulations are subject to the approval of Provincial People's Congresses, most of the local Congresses are only rubber stamps of the policies proposed by the administrative branch. For example, for provincial Ordinances (*tiaoli*), while the administrative branch usually will put them on the agenda of the Standing Committee of the Provincial People's Congress for discussion, the final version of these Ordinances still only reflects the interests of those who initiate them. In many situations, if an issue concerns more than one

government department, all the relevant departments tend to promulgate their own regulations. The lack of coordination among these departments is likely to lead to an outcome where the departmental regulations are in fact contradictory to each other.

Accordingly, studying provincial regulations is a direct way to understand how provincial officials behave in the labor policy implementation. In fact, students of labor market regulations have long recognized the importance of government rules in regulating the labor market. Many of them have conducted extensive research on how to differentiate stringent labor regulations from generous ones. For example, the World Bank assembles a data base of International Labor Office certifications for 119 countries (Forteza and Rama 2001). Botero et al. collect data on employment, collective relations, and social security laws as of 1997 for 85 countries (Botero et al. 2004). Many of these indexes, however, are not very useful in encapsulating China's labor regulatory system. For example, as there is no independent trade union in China, the index on the statutory protection and power of unions do not represent the real situation in China. Accordingly, I do not use the same criteria to examine the role of China's trade unions. In addition, I skip those regulations specifically on social security and focus on how provincial governments drafted regulations to implement the labor contract system particularly. To conduct a comprehensive survey on the various local labor market regulations, policies, and laws related to the implementation of the labor contract system, I use several databases, including the *Wang Fang* Data (Policies and Laws of China), the Law Library Online,<sup>110</sup> and the collections of the

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<sup>110</sup> See the Law Library Online at <http://www.law-lib.com/local>

Central Labor Ministry<sup>111</sup> and Provincial Labor Departments<sup>112</sup> to have a grasp of government rules.

As mentioned in the last chapter, before the 2007 LCL was promulgated, China lacked national laws to regulate the process of labor contracting. Most of the clauses in the 1994 LL merely focus on termination. At the regional level, however, when the national campaign for regulating the labor condition in the non-state sector was launched in the early 2000s, most provinces made their own regulations on labor contracting process as well as the change, termination and renewal of labor contracts. For example, Zhejiang Province announced the Measures for Labor Contracts in 2002 and Hubei Province introduced its Provisions on Labor Contracts in 2005. These rules provided the foundation for provincial-level governments to regulate the labor market in their jurisdictions.

In this chapter, I examine five sets of issues in these labor regulations to differentiate their rigidity in regulating the labor contract system (See Appendix 4.2 for the list of issues for measuring the rigidity of provincial labor regulations on labor contracts). In addition to standardizing the process of labor contracting, the reform in the 2000s also aimed to reduce the use of short-term contracts and to increase employees' job security. Accordingly, I examine the rules on 1) the renewal of labor contracts and 2) the promotion of non-fixed-term contracts. A regulation will be more rigid if more workers are eligible for contract renewal or non-fixed-term contracts, and

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<sup>111</sup> China's Labor and Social Policies database, published by the Ministry of Labor and Social Security, has most of the country's national-level labor and social regulations.  
<http://trs.molss.gov.cn/was40/mainframe.htm>

<sup>112</sup> Many provinces provide databases of their labor regulations on the official websites of their Labor Departments. In addition to these websites, I collected several Provincial Documentary Compilations (*Wenjian Huibian*) issued by the Provincial Labor Departments' Work Conference Offices.

if more rules are made to protect the renewal process. Moreover, my indicators also include 3) whether the regulation covers collective labor contracts and 4) the role of trade unions. In addition, I incorporate 5) the number of articles to measure the overall rigidity of a labor regulation. The rationale is that when a regulation has more articles, it provides more detailed rules on how labor contracting is regulated.

Based on the measurement, the rigidity of Chinese provincial regulations on labor contracts ranges from 0.0 to 10.5, with 0.0 as the most flexible regulation and 10.5 as the most rigid. (See Appendix 4.3 for the detailed calculation of rigidity of all the 31 provincial-level regions' labor contract regulations.) These regulations can be grouped into three categories according to the degree of rigidity as shown in Table 4.1. Each category is divided at intervals of three points.

Table 4.1 The Rigidity of Regulations on Labor Contracts, Unit: Points

0.0 — 3.0		3.5 — 6.5		7.0 — 10.5	
Guangdong	3.0	Hunan	6.5	Beijing	10.5
Jilin	3.0	Heilongjiang	6.5	Liaoning	7.5
Guizhou	3.0	Tianjin	6.0	Zhejiang	7.0
Shaanxi	3.0	Sichuan	6.0	Xinjiang	7.0
Hebei	2.5	Jiangsu	5.5		
Hubei	2.5	Hainan	4.5		
Anhui	2.0	Yunnan	4.0		
Chongqing	2.0	Fujian	4.0		
Qinghai	2.0	Gansu	3.5		
Henan	0.0*	Jiangxi	3.5		
Tibet	0.0*	Shandong	3.5		
Guangxi	0.0*	Shanghai	3.5		
Shanxi	0.0*	Inner Mongolia	3.5		
		Ningxia	3.5		

Note: \* The provincial regulations that cover all the four issues related to labor contracting process, the change, termination and renewal of labor contracts cannot be found. This is either because these provinces do not make this kind of regulations, or simply because the data are missing. If the former is true, the rigidity point of each of these provinces is 0.0.

Source: Author's database and calculations.

To generate hypotheses regarding the causes of Chinese provincial governments' implementation of the central pro-labor policy reform, I choose three diverse cases from the Table for my study. According to Gerring, if the variable of interest is continuous, the researcher usually selects cases that have the highest, lowest, and mean or median values (2006). Following the rule, I choose one case from each of the group in Table 4.1 to examine how they have built the labor regulatory regimes to implement the central reform of expanding the labor contract system since the late 1990s. The three cases are Beijing Municipality, Hunan Province and Guangdong Province. They represent different degrees of provincial labor regulation rigidity in China. Before the discussion on the behaviors of the three provincial-level governments, some basic information about these three regions is provided in Appendix 4.4 and 4.5. In general, Guangdong's economic size has been much larger than that of Beijing and Hunan since the early 1990s (See Appendix 4.4). While the Gross Domestic Product (GDP) of Beijing and Hunan was similar to each other, Hunan was a more backward province in terms of GDP per Capita. Hunan's GDP per Capita was below the national average, and much lower than Beijing's (See Appendix 4.5). The following section will detail how the three governments promoted the labor contract system in the 2000s.

#### ***4.1.1 Rigid Labor Market Regulations in Beijing***

Beijing's efforts to implement the labor contract system were found in the numerous municipal regulations and detailed clauses within these regulations. Just after the promulgation of the 1994 Labor Law, Beijing started to draft local rules for implementing the LL. In February 1995, the Beijing government announced “Some Provisions on Implementing the Labor Contract System,” which required enterprises to sign contracts with all workers by 1996. The detailed guideline was subsequently laid out in the “Implementation Details of Executing the Labor Contract System,” released in March 1995, which asked enterprises to make drafts of labor contracts. These drafts would not be validated until trade unions' or workers assemblies' approval, and the contracts needed local Labor Bureaus' confirmation. The major targets of these regulations, however, were not the non-state sector, because the focus of labor contracting was still on deregulating SOEs at that time.

In the early 2000s, Beijing started to make regulations for expanding the labor contract system to the non-state sector. In December 2001, the “Beijing Municipal Provisions on Labor Contracts” was passed by the Standing Conference of Beijing Government. The document has 53 articles and provides more detailed rules in regulating the labor contracting process than the 1994 LL as well as the Hunan and Guangdong counterparts (See Appendix 4.8). Several clauses are different from the 1994 LL. For example, regarding probationary periods, the Beijing Provisions are

more strict and detailed.<sup>113</sup> Moreover, regarding the eligibility of non-fixed-term labor contracts, in addition to those who have worked consecutively for an employer for ten years, the Beijing Provisions state that a non-fixed-term contract should also be concluded if a worker receives labor awards such as the Wuyi Labor Award. In general, this document is more rigid in regulating the labor market than the 1994 LL.

Besides promoting non-state enterprises to sign contracts and regulating the content of these contracts, Beijing also intended to correct the tendency toward short-term contracts and to promote renewing contracts. In 2000, the Beijing Bureau of Labor and Social Security (BBLSS) and the Beijing Federation of Trade Unions (BFTU) jointly announced the “Opinion about Further Steps for Renewing and Terminating Labor Contracts.” The efforts to use governmental rules to regulate the non-state sector have become more intensive since the mid-2000s. In July 2005, Beijing announced the “Circular about Further Steps for Stimulating the Non-state Sector to Regulate Labor Contracts.” This notice asks the Beijing Federation of Industry and Commerce (BFIC), namely the Beijing branch of the central government's State Administration for Industry and Commerce (SAIC), to work with the BBLSS to improve the rate at which labor contracts are signed. Moreover, the Committee Conference of the BFTU published the “Guideline for Promoting the Task of Labor Contracting.” The Guideline emphasizes the role of firm-level trade unions in helping enterprises to draft individual labor contracts, as well as in investigating whether the clauses in these contracts adhere to a lower standard than those in the

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<sup>113</sup> According to the 2001 Beijing Regulation, if the term of a labor contract is less than six months, the probationary period shall not exceed 15 days. If the term is sixth months to one year, the length of the probationary period should be less than one month. A six-month probationary period is only allowed for a labor contract of two years (or longer).

collective contracts. In September 2005, the BBLSS organized a large-scale inspection. As one of the officials who participated in this inspection informed me, most of the labor officials, especially the labor commissioners (*laodong baozhang zhuanguan yuan*),<sup>114</sup> actively participated in the inspection, because they had to fulfill the orders from the leaders. “We at least should find one factory in a district that failed to sign contracts with some of their employees. We then fined the factory for its wrongdoings. Otherwise, the chances for us to be promoted within the Bureau or to get a raise would be decreased.”<sup>115</sup>

In 2006, when the central government launched the Three Year Acting Program of Promoting the Labor Contract System, most provinces announced their own provincial-level practical schemes to help implement the central agenda. According to Beijing's scheme, a Small Leading Group (SLG) was to establish for supervising the task. The SLG coordinated several municipal bureaus including the Bureau of Industry and Commerce, the Commission of Housing and Urban-rural Development, the Commission of State-owned Assets Supervision and Administration, and the Commission of Transport. At the same time, big enterprises were asked to prepare collective contracts for their workers. The BFTU published standardized and “boilerplate” copies of collective labor contracts in October 2008, and chose 100 enterprises within the city to experiment with the standardized contracts.<sup>116</sup>

The Labor Bureau and the Trade Union Federation in Beijing were the major advocates of these programs. In fact, they were also the direct beneficiaries of the task

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<sup>114</sup> Labor commissioners are one kind of grassroots administrators and street-level bureaucrats in the Labor Bureau. See later discussion in Section 4.3.2.

<sup>115</sup> Informant 26. Interview conducted in Beijing on April 16, 2008.

<sup>116</sup> See Beijing Yearbook 2009.



of regulating the non-state sector in the municipality. Forcing non-state enterprises to sign contracts with workers mandated the use of the Labor Bureau's efforts to inspect these enterprises. More fiscal transfers were thus made by the Beijing Bureau of Finance into the Labor Bureau's coffers in order to conduct these activities. Lower-level officials in the Labor Bureau sensed that “the Bureau seems to have been getting richer since 2005.”<sup>117</sup> Moreover, some officials in the Labor Bureau reported that “the Bureau has more authorities than before. Now most enterprises have to pay attention to our inspection. Although it is impossible for the Bureau to become as influential as it was in the pre-reform era, when it had the ability to directly intervene in enterprises' labor allocations, these new activities help enhance the strength of the Bureau.”<sup>118</sup>

Regulating the non-state sector not only magnified the reputation of the Beijing Labor Bureau, but also enabled the Beijing Trade Union Federation to regain its power in the municipal governing system. According to the 2001 Trade Union Law (TUL), the implementation of the collective contracting system needs trade union's participation. Moreover, organizing unions in the non-state sector also largely enhanced its power and prestige, as discussed in Chapter Three, and this was also true in Beijing. According to the 2002 Beijing Measure for Implementing the TUL, if an enterprise in a street (*jiedao*) fails to organize a union after half a year from the date when the enterprise is established, the upper-level union, namely the one at the district

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<sup>117</sup> Informant 26. Interview conducted in Beijing on April 16, 2008. As to the question of why the Bureau was in possession of greater assets, the informant refused to guess from where the money might have come.

<sup>118</sup> Informant 25. Interview conducted in Beijing on March 11, 2008.

level, can (and is directed to) force it to form one.<sup>119</sup> Moreover, it also provides that if an enterprise has more than 25 female workers, it is to form a female employee committee within the trade union. These rules on union organization are much stricter than those in the 2001 TUL (See Appendix 4.7). At the same time, regarding financial resources, the 2002 Beijing Measure also provides more detailed clauses than does the 2001 TUL. It states that the fee should be paid to trade unions by the 15th of every month. If an enterprise fails to submit the full amount, the penalty will be 5% of the outstanding balance (Article 51).

In addition, to make the policy-making more accessible, the BFTU advocated the following policies. First, a tripartite mechanism was established at the municipal level in 2005. According to the Beijing Three Year Acting Program of Promoting the Labor Contract System promulgated in 2006, Beijing aimed to establish tripartite mechanisms in 95% of those streets (*jiedao*) and towns within districts or counties that were close to the core of the city, and in 59% of the streets and towns within districts or counties that were far away from the core of the city.<sup>120</sup> Second, according to the 2002 Beijing Measure, any governments above the county level are required to form a joint conference (*lianxi huiyi*) with the Federation of Trade Unions at the same level to report any critical economic policy changes that have significant impacts on employees (Article 38). This enabled the BFTU to have a say in the government's economic policy-making.

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<sup>119</sup> See Appendix 4.1. Streets (*jiedao*) locate at the 5th level in the Chinese administrative structure, while the district level is at 4<sup>th</sup>.

<sup>120</sup> See Beijing Yearbook 2009.

#### ***4.1.2 Restructuring Provincial Bureaucracies in Hunan***

As indicated in Table 4.1, the rigidity of “Hunan Provisions on Labor Contracts” is lower than that of Beijing. The rules in the Hunan Provisions are less detailed (See Appendix 4.8). In addition, in terms of quantities, Hunan promulgated fewer labor regulations than did Beijing. The Provisions was passed by the Standing Conference of Hunan Government in April 2003, one year after the Beijing Provisions came into being. Unlike in Beijing, where several municipal regulations were announced before the 2001 Beijing Provisions, this document was the first regulation on labor contracts in Hunan since the 1994 LL was promulgated.

The rules on contracting process in the Hunan Provisions are similar to the 2001 Beijing Provisions. Apparently, the former treated the latter as its model, and learned from the latter's experience when drawing up its own regulation. As an official in the Legislative Affairs Section of the Hunan Labor and Social Security Department stated, “when we were drawing our own regulations, we carefully studied all the other provinces' regulations to make sure that we came up with the best one suitable for Hunan.”<sup>121</sup> The “best” regulation, however, contains much less detailed component-rules than does its Beijing counterpart.

On the other hand, regarding the Provincial Measure for Implementing the TUL, Hunan promulgated its rule in 2003, still one year after Beijing. In the Measure, the definition of the trade union's function is much less clear than in the Beijing document. For example, the Hunan rule does not specify punishments for when

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<sup>121</sup> Informant 35. Interview conducted in Changsha, Hunan on May 20, 2008.

enterprises fail to submit fees to the trade union. Overall, the rules in the Hunan Measure are not particularly rigid compared to those in the 1994 LL, and are much weaker than those in the Beijing Measure. Indeed, the Hunan provincial government did not put much attention to making regulations. In Hunan, more efforts were made to organize new bureaucracies to supervise the task of regulating the labor market; promulgating regulations was not the focus.

Hunan started to actively participate in regulating the labor market from the year 2005 on by establishing new bureaucratic agencies which supported the provincial Labor Department. In 2005, the Hunan government published a black list of twenty enterprises that had failed to sign labor contracts. In August 2006, the Hunan Labor Department promulgated the provincial Three Year Acting Program, and named 2006 the “Year of Regulating Labor Contracts.” The program divided the steps for promoting labor contracts into three stages. At the first stage, lower levels of government were asked to choose some enterprises as “demonstration units.” At the second stage in December 2007, the focus was to regulate the content of contracts. The government issued standardized copies of contracts for different sectors and recommended enterprises prepare contracts similar to them. The standardized contracts abolished the division of temporary workers and fixed workers. Employers needed to pay social insurances for all workers. Enterprises also were not allowed to divide employees into different categories. The goal of the last stage was to have 98% of the non-state enterprises sign labor contracts with their workers.

According to the Hunan Three Year Acting Program, a new bureaucracy should be established to coordinate different departments within the Hunan provincial

government. Similar to Beijing, the “Hunan Small Leading Group of Labor Contracting and Wage Assignment”<sup>122</sup> was put into practice in 2006 to promote the labor contract system. In comparison with Beijing, more provincial departments were incorporated into the Hunan SLG under the leadership of the Labor Department. These departments included the Bureau of Industry and Commerce, Departments of Finance, Public Security, Housing and Urban-rural Development, Civil Affairs, and Supervision. (See Appendix 4.8 for the comparison of SLGs in different provincial-level regions.) The SLG served as a platform to integrate the relevant departments into the project of promoting the labor contract system.

The Hunan SLG was a powerful institution in the provincial government not only because it had the authority to supervise many departments, but also because several critical government agencies, including the Public Security and Finance Departments as shown in Appendix 4.8, who were in charge of the province's social stability and budget allocation respectively, were subject to the leadership of the Labor Department in the LSG. For its Beijing counterpart, the two relevant Bureaus were not included in the Beijing SLG. For many other provinces, establishing the LSG of Labor Contracting was even not required in their Three Year Acting Programs. For those who aimed to create LSGs, the new bureaucracy usually only consisted of the members in the tripartite meeting for coordinating labor relations, namely the Labor Department, the Federation of Trade Unions, and the Enterprise Confederation. Only a few provinces' SLGs were granted to supervise other departments, and the Hunan LSG

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<sup>122</sup> See Hunan Labor and Social Security Department.  
[http://ldt.hunan.gov.cn/pub/govweb/gzdt/2006/t20061108\\_12462.htm](http://ldt.hunan.gov.cn/pub/govweb/gzdt/2006/t20061108_12462.htm)

was one of those who could successfully serve as a powerful leader in coordinating their critical provincial colleagues in the process of labor policy implementation.

In addition to the new SLG, which aimed to coordinate the different departments at the provincial level, a Liaison Mechanism was established in Hunan to generate comprehensive policy guidelines for all the three levels of government below the provincial level.<sup>123</sup> The mechanism was based on a plan called “uniting three levels into one action” (*sanji liandong*). All the three levels, namely the province (*sheng*), prefecture-level municipalities or autonomous prefectures (*dijishi* or *zizhizhou*), and counties or city districts (*xian* or *shixiaqu*), were to select enterprises with differing types of ownership structure as “demonstration units” to implement the labor contract system. Usually, only those enterprises with good percentage records of signing contracts would be selected as the demonstration units. “This was because we wanted to show to other enterprises the positive consequences of signing labor contracts with workers. Complying with the Labor Law would not impede profit generation. These units had already shown good economic performance.”<sup>124</sup> The demonstration units were to achieve the end of signing contracts with all their workers by 2008. This plan constructed a network among demonstration units at different levels so as to expand the system “from a single point to the whole plain” (*you dian dao mian*). By the end of 2007, there were a total of 221 enterprises selected as demonstration units in Hunan Province.<sup>125</sup>

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<sup>123</sup> See the official website of the MOLSS. [http://w1.mohrss.gov.cn/gb/zt/2006-08/28/content\\_130407.htm](http://w1.mohrss.gov.cn/gb/zt/2006-08/28/content_130407.htm)

<sup>124</sup> Informant 34. Interview conducted in Yiyang, Hunan on May 30, 2008.

<sup>125</sup> See the official website of the MOLSS. [http://w1.mohrss.gov.cn/gb/zt/2006-08/28/content\\_130407.htm](http://w1.mohrss.gov.cn/gb/zt/2006-08/28/content_130407.htm)

The establishment of the Small Leading Group and the Liaison Mechanism strengthened the power of the Hunan Department of Labor and Social Security in particular in coordinating other administrative branches within the province. This gave it the opportunity to enhance its actual ranking among other departments in the provincial government. On the other hand, in general, while the activities covering regulating the labor market also increased the importance of the Hunan Federation of Trade Unions (HFTU), Hunan's policy of establishing new bureaucracies contributed little to the improvement of the Trade Union's political power. Unlike in Beijing where the Trade Union vigorously participated in the policy-making process to promulgate regulations to strengthen its reputation and function, the weaker and less clear regulations regarding the role of trade unions in Hunan disclosed that the HFTU was not the prime initiator of the reform in the 2000s. The activities centered around restructuring the bureaucracy in Hunan particularly favored the Labor Department in the province.

The Hunan Labor Department also registered the attempts to strengthen its power through bargaining with other departments for more tasks to be included under its jurisdiction. Traditionally, if a department was in charge of more critical tasks, it would become more powerful compared to others. In fact, in the 2000s, complaints about the heavy workload in the Labor Department were prevalent among grassroots labor officials in Hunan. Many of these complaints resulted from the Labor Department overstepping unclear boundaries with other departments. A labor

assistant<sup>126</sup> in the Yiyang Municipal Labor Bureau in Hunan reported that he had to deal with some tasks that were originally assigned to other Bureaus, including the Civil Affairs Bureau. For him, his primary tasks already included running the programs of vocational training and medical insurance for flexible employees as well as issuing the “re-employment preferential license” for laid-off workers. He stated, “the workload is already huge. We often need to work overtime, but still the assignments cannot be completed on time. Still, last year the Labor Bureau asked us to take over the management of Subsistence Security System. This should not be part of our work. This belongs to the Civil Affairs Bureau, and they also have assistants to deal with this kind of insurance. As far as I know, they seldom work overtime. Why do our bureau leaders put greater workloads on our shoulders? Maybe there is no need for the Civil Affairs Bureau to hire assistants for the Subsistence Security System.”<sup>127</sup>

The ministerial struggle for more tasks to be taken up by its own ministry is a traditional point of debate in China's bureaucratic battle. A researcher in the Beijing Academy of Social Science informed me that the All China Women's Federation and the Ministry of Agriculture were usually involved in a conflict of who could speak for migrant workers' children.<sup>128</sup> The reason why having the right to speak for the group was important resided in the fact that the one that was ultimately found eligible to represent the voice of migrant workers' children would receive the funding to conduct research on the topic, as well as to regulate the group. The same logic is also applicable to the Hunan Labor Department. In order to enhance its bureaucratic power

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<sup>126</sup> Labor assistants are one kind of grassroots administrators in the Labor Bureau. See later discussion.

<sup>127</sup> Informant 37. Interview conducted in Yiyang, Hunan on May 25, 2008.

<sup>128</sup> Informant 23. Interview conducted in Beijing on July 10, 2008.



and function compared to other departments, as the interview cited above shows, it also engaged in bargaining with others for more tasks to be assigned to its purview.

#### ***4.1.3 Weak Labor Regulatory Regime in Guangdong***

Unlike Beijing and Hunan, the Guangdong government did not make considerable efforts to regulate the labor market until the late 2000s. In the early and mid-2000s, the province only had one regulation, namely the 2003 “Guangdong Provincial Provisions on Labor Contracts”, to regulate the labor condition in the non-state sector. Most of the articles in this 2003 Provisions, however, are largely the same as its 1995 predecessor, namely the “Guangdong Provincial Provisions on Labor Contracts” promulgated in April 1995. But the 1995 predecessor was drafted to facilitate the liberalization of SOE labor force, and not for the task of regulating the non-state sector. Still, the 1995 Provisions became the blueprint of Guangdong's main document for implementing the central policy of regulating the non-state sector in the 2000s. There are only two articles that were revised to complete the 2003 version. This reveals that the Guangdong government did not invest in drafting provincial regulations for the very task of regulating the non-state sector within its justification.

In comparison with the 1994 LL, some of the rules in the 2003 Guangdong Provisions, particularly those about signing and terminating a labor contract, are more rigid.<sup>129</sup> However, many other articles are more flexible than the 1994 LL. For

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<sup>129</sup> For example, Article 7 of the 2003 Guangdong Regulation states that enterprises should sign contracts with their employees within 30 days after the employees are recruited. Moreover, if an enterprise does not choose to use the normal copy of the contract, its contract needs to be confirmed by

example, the 2003 Guangdong Provisions restrain the use of non-fixed-term contracts. An employee can request a non-fixed-term contract only if he or she is in a regular technological position within his or her enterprise. For collective contracts, the Guangdong Provisions limit the length of a collective contract to three years. These flexible rules are not found in the Beijing or Hunan counterparts.

On the other hand, regarding the role of the Guangdong Federation of Trade Unions, in September 2004, Guangdong announced the “Measure for Implementing the TUL,” two years after Beijing and one year after Hunan. According to this document, enterprises are to organize their unions within six months. Regarding the issue of funding, similar to the Hunan counterpart, the document does not specify the punishment if enterprises fail to submit fees to the trade union, as does the Beijing Provisions.

In fact, the Guangdong government did not intend to actively regulate the labor market until 2007 when the new Provincial Party Secretary Wang Yang made several public announcements to support the pro-labor reform. In November 2008, on his way to investigate the economic situation in Zhanjiang Municipality in the province, Wang publicly declared that while the implementation of the 2007 LCL had largely increased the labor cost of many enterprises in the province, the bankrupted enterprises had only become that way due to their own low productivity, and there was no need to save them.<sup>130</sup>

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the Labor Department. When terminating the contract, the enterprise is to inform the employee 30 days prior. Otherwise, it will have to pay one month's wages to the employee as separation compensation. These articles are more rigid than those in the 1994 LL in regulating the labor market.

<sup>130</sup> Xinhau New Agency, November 14, 2008. [http://news.xinhuanet.com/local/2008-11/14/content\\_10356311.htm](http://news.xinhuanet.com/local/2008-11/14/content_10356311.htm)

In addition to Wang's endorsement, the Guangdong government also called for a regulation for the implementation of the LCL. In March 2007, it publicized the draft of “Measure for Implementing the Labor Contract Law” for public feedback.<sup>131</sup> The Standing Committee of the Guangdong People's Congress (GPC) and the Guangdong Government together marked the promulgation of the Measure as a critical task in the 2008 Annual Legislative Plan.<sup>132</sup> This move encountered strong resistance from many labor-intensive manufacturing industries in the province. The making of the Measure was finally suspended in November 2008 when the Financial and Economic Affairs Committee of the GPC recommended to postpone this legislation until more investigation is done to understand the economic consequences of the LCL. Despite of this suspension, Guangdong was still one of those provincial governments who pioneered a draft to implement the national LCL.<sup>133</sup>

To sum up, these regulations and administrative activities documented how much effort the three provincial-level governments made in the process of implementing the labor contract system. In addition to them, the actual outcome of labor policy implementation provides us with a supplementary story of whether the central reform direction was carried out by the provincial governments or not. To have

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<sup>131</sup> The draft of the Measure can be found on the official website of the Legislative Affairs Office of the Guangdong Government.

[http://www.fzb.gd.gov.cn/home/article\\_show1.jsp?act=view&articleID=c11c3131fea4783da992c8336b7d5055&catalogID=768371d74983e3120bba56cb5b675593&path=%D5%FE%B8%AE%C1%A2%B7%A8-%C1%A2%B7%A8%D5%F7%C7%F3%D2%E2%BC%FB](http://www.fzb.gd.gov.cn/home/article_show1.jsp?act=view&articleID=c11c3131fea4783da992c8336b7d5055&catalogID=768371d74983e3120bba56cb5b675593&path=%D5%FE%B8%AE%C1%A2%B7%A8-%C1%A2%B7%A8%D5%F7%C7%F3%D2%E2%BC%FB)

<sup>132</sup> Xihua News Agency, April 10th, 2008. [http://www.gd.xinhuanet.com/newscenter/2008-04/10/content\\_12924481.htm](http://www.gd.xinhuanet.com/newscenter/2008-04/10/content_12924481.htm)

<sup>133</sup> Jilin Province was another pioneer. In November 2007, Jilin announced the “Regulation on Labor Contract.” This Regulation took effect on the same date as the LCL did, and was recorded as the first provincial rule on the implementation of the 2007 LCL.

a glance of how successfully the labor contract system was implemented, the study collects the official data about how many workers were hired with written labor contracts from provinces' annual yearbooks. Table 4.2 shows the average labor contract signing rates in the three regions from 2000 to 2005.

Table 4.2 The Average Labor Contract Signing Rates in Beijing, Hunan, and Guangdong from 2000 to 2005\*\*\*

Year	Beijing	Hunan	Guangdong
Type of enterprises	All urban enterprises*	All enterprises	All enterprises
Average rate	87.03	88.12	85.92 **

Note:

\* refers to the rate of labor contract renewal. The Beijing Yearbooks did not record the rate of signing labor contracts.

\*\* The record in 2003 is missing. This number in Guangdong is the average rate of labor contracting in 2000-2002, 2004 and 2005.

\*\*\* See Appendix 4.9 for the original data on each year.

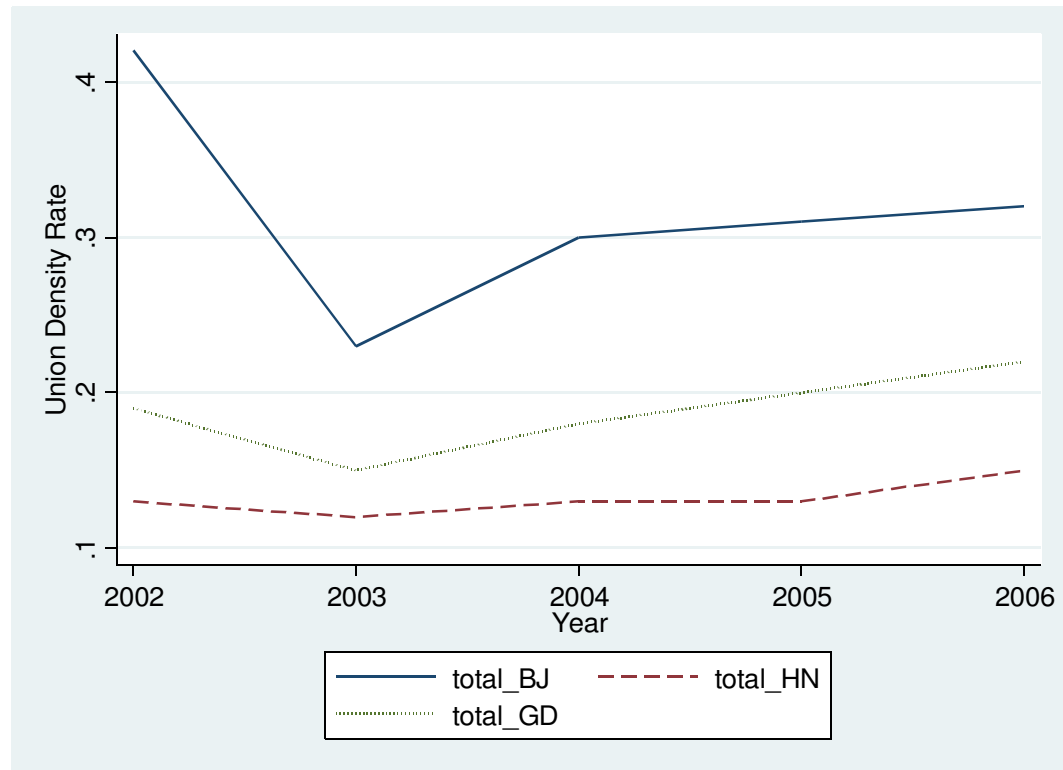
Source: The Yearbooks (*Nianjian*) of Beijing, Hunan, and Guangdong, 2001-2006.

According to this official record, from 2000-2005, the average rate of workers with written contracts in Guangdong was lower than that in Hunan and Beijing. While there were no data on the labor contract signing rate of all enterprises in Beijing, the Table shows that Beijing was successful in forcing urban enterprises to renew their workers' contracts. These records provide supplementary information and confirm the aforementioned discussion that in general, Beijing and Hunan put more efforts to build rigid labor regulatory regimes than Guangdong.

On the other hand, the activities of organizing trade unions also reflected whether the provincial governments successfully implemented the central plan of

regulating the labor market. Figure 4.2 compares the trade union density in all enterprises in Beijing, Hunan, and Guangdong.

Figure 4.2 Trade Union Density in Beijing, Hunan, and Guangdong, 2002-2006. Unit: %.



Note:

1. Union density is calculated from the number of total trade union members in a province divided by the number of all employed in the province.
2. The number of trade union members is collected from the Statistical Yearbooks (*Tongji Nianjian*) of Chinese Trade Unions, 2001-2007, and the number of all employed is from the Statistical Yearbooks of Beijing, Hunan, and Guangdong, 2001-2007.

The Figure shows that in Beijing, the overall trade union density, regardless of the ownership structures, was constantly much higher than that in Hunan and Guangdong. The fact that Hunan had the lowest union density rate implies that the province's action to regulate the labor market was largely dominated by the Labor

Department, and not the Trade Union. As Section 4.2.2 already illustrated, in Hunan, the construction of the labor regulatory regime was centered around the issue of restructuring the government bureaucracies led by the Labor Department. The Hunan Trade Union was much weaker in the process, and hence the campaign of organizing trade unions favored by the Hunan Federation of Trade Unions was not very successful.

In a nutshell, the various provincial regulations and administrative activities, together with supplementary data such as the labor contract signing rates and trade union organizing rates, reveal that different provincial governments have invested different efforts to implement the central pro-labor reform. The following sections will investigate how social grievances and bureaucratic interests may play a role in these variations.

## **4.2 Social Grievances in the Provincial Labor Policy-making Processes**

The last chapter informs us that the potential unrest from workers itself is inadequate to indicate the direction of labor policy reform. This section will look into the provincial policy-making processes to see whether workers' grievances are still not the determinant factor in explaining provincial labor policy outcomes.

In China, workers' political influence can hardly be judged by their ability to get organized because the possibility to have collective voices pressing the government is constantly very low and in today's China, almost all labor protests remain cellular (C. Lee 2007). But sometimes, even when there are no organized

labor protests, the government might still act preemptively to promulgate pro-labor policies in order to prevent workers' grievances from deteriorating into protests. If this is true, a government should be more willing to regulate the labor market if potential labor unrest is likely to take place. Given that we can barely know the potential damage of these protests to the local stability through observing workers' ability in organizing themselves, we need to find other indicators to examine the potentiality of labor unrest sparking off in a certain locality.

In theory, this potentiality varies according to provinces' employment structures, namely how large a proportion of workers is hired in labor-intensive industries (LIIs), because LIIs are more likely to exploit their employees, given that labor cost accounts for the largest expense in these companies. In China, many LIIs adopt practices to increase numerical flexibility including the use of workers with short-term contracts or even without any contracts. Labor unrest such as employee suicides and strikes is more frequently found in these industries. When more workers are hired in labor-intensive industries in a province, the provincial government will tend to feel less safe, because labor unrest is more likely to happen and will be more detrimental to the maintenance of the province's social stability. This study thus uses the share of employees in LIIs in a provincial-level region as the proxy to measure the degree of potential labor instability in that locality.

#### ***4.2.1 Workers' Grievances at the Provincial Level***

To identify labor-intensive industries in China, I calculate the factor intensity in every Chinese industry. Factor intensity can be measured in several ways. Das and Kalita (2009) examines the labor-capital ratio defined as number of labor per unit real gross fixed capital, and divides India's manufacturing industries into labor- and capital-intensive respectively. X. Zhang (2000) groups China's tradable manufacturing commodities into physical capital-intensive, human capital-intensive, and unskilled labor-intensive ones, based on the measurement of the capital stock and the skill levels of these industries. According to Zhang, the indicator of capital stock is the physical capital-labor ratio, defined as the net value of fixed capital assets per employee. And skilled labor refers to those who have education above the high school level (over nine years of schooling).

In this chapter, I examine all the Chinese industries as listed on the Chinese Yearly Industrial Data published by China's National Bureau of Statistics, and divides these industries into two categories only, capital- and labor-intensive. The reason why I do not adopt Zhang's categorization to distinguish human capital-intensive from unskilled labor-intensive industries is that most of Zhang's human capital-intensive industries are not free from labor protests. In fact, mass group incidents (*quntixing shijian*) are widespread in these industries too. Take the electronic manufacturing industry for example. This industry falls into the human capital-intensive category in Zhang's study. As a local Chinese newspaper reported, among the forty-one mass group incidents which occurred from January to June in 2010 in various Chinese



provinces, there were sixteen cases taking place in electronic manufacturing factories.<sup>134</sup> Moreover, in many localities, it is common for workers whose education is above the high school level to go on a strike. This demonstrates that in China, labor instability is also serious in many human-capital intensive industries. We should thus include these industries when calculating the degree of potential social unrest in a locality.

In the Chinese Yearly Industrial Database, there are thirty-nine industries in total.<sup>135</sup> I categorize these industries into two groups by the capital-labor ratio defined as the net value of fixed capital assets per employee. Using the 2006 data, the labor intensity (capital-labor ratio) in all the 39 Chinese industries ranges from 22.59 (the industry of Leather, Furs, Down and Related Products) to 1007.87 (the industry of Electricity and Heating Production and Supply), and the medium number is 96.37. Nineteen industries whose capital-labor ratios are less than 96.37 in 2006 are selected as labor-intensive ones (See Appendix 4.10).

The three provincial-level regions display different patterns of employment structure. The percentages of employees hired in labor-intensive industries in Beijing was 40% of all its employees in 2006, while in Hunan, it was 43% and in Guangdong, it was more than 60%.

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<sup>134</sup> The list was created by Wenwei News Info, July 02, 2010.  
<http://trans.wenweipo.com/gb/info.wenweipo.com/>

<sup>135</sup> The list of industries is provided in Appendix 4.10.

Table 4.3 Employment Structure of Beijing, Hunan, and Guangdong, 2006. Unit: %

Provincial-level Region	Beijing	Hunan	Guangdong
The Share of Employees in Labor-intensive Industries	40	43	62

Note: The share of employees in LIIs in a province is calculated by the number of employees in LIIs divided by the number of employees in all industries in the province.  
Source: Yearly Industrial Data 2006, China Data On-line, and author's calculations.

Table 4.3 illustrates that, among the three provincial-level regions, Guangdong suffered a much higher degree of potential labor instability than Beijing and Hunan. Guangdong's high degree of potential labor unrest, however, did not result in a stronger labor regulatory regime established in the province until 2007. In comparison, while the potential labor instability in Beijing were less serious, the government still made efforts to draft detailed and rigid regulations to support the labor contract system. At the same time, Hunan also invested in building a labor regulatory regime, despite the low degree of potential labor unrest. Potential social instability itself did not seem to be the ultimate reason for a local government to build a pro-labor regime.

#### ***4.2.2 Resistance of the Business Community at the Provincial Level***

Unlike the central bureaucrats, provincial officials face much stronger resistance of the business community to the regulation of the labor market. This is because for most enterprises, blocking the local policy implementation is much more important than lobbying the central officials to make preferential national regulations. Accordingly, most businessmen only wield their power at the local level. This

explains the observation made by many researchers that despite the announcement of many high-quality labor regulations by the central government, the actual labor conditions in China at the enterprise level still have not been significantly improved.

However, while many businessmen act strongly to delay the implementation of the labor contract system in their enterprises, they are not very successful in stopping local governments' campaigns for ensuring every worker to have a labor contract. Nor could they delay the activity of organizing trade unions in their enterprises. As some researchers point out, in the 2000s, many enterprises could not resist the establishment of trade unions in their factories, because local governments firmly supported the central government's union organizing agenda, given that the policy was helpful for social stability (Liu 2008, 19-20). Most enterprises were forced to accept unions due to the pressure of local governments. At the same time, many enterprises were also not able to stop local governments' inspection of labor contract signing, because the policy was the major focus of the central government. In many localities, the top agenda of labor inspecting missions was to force enterprises to sign labor contracts. For example, the Beijing government announced hard indicators (*zhibiao*) to force the district and county governments to achieve a certain level of labor contracting.<sup>136</sup> The campaigns for signing labor contracts and organizing trade unions generally met the purpose.

Businessmen were, however, very successful in posing obstacles to the implementation of some other rules, such as those on overtime work and wage arrears, which were also supposed to be regulated under the labor contract system. As labor-

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<sup>136</sup> See the website of Beijing Recruitment (*gongzhao*).  
<http://www.bjgongzhao.com.cn/bjgongzhao/ARTICLES/64910/124103.htm>

intensive enterprises were the hardest hit by rigid labor market regulations, many businessmen made use of their personal connections to lobby all the relevant government officials, including those in the Labor Departments, the Provincial Federations of Trade Unions, the Provincial Federations of Industry and Commerce, and even top provincial leaders, to impede the full implementation of the pro-labor policies in their enterprises.

Among the three cases under study, Guangdong's labor-intensive industries had the strongest leverage in the provincial labor policy implementation process, because the province's economy relied more on these industries' development. Table 4.4 calculates the share of LII's value-added to illustrate these industries' importance to the local economy. To make sure the economic growth, the Guangdong officials were more likely to compromise with these enterprises.

Table 4.4 The Importance of LIIs to Beijing's, Hunan's, and Guangdong's economic growth, 2006. Unit: %.

Provincial-level Region	Beijing	Hunan	Guangdong
The Share of the Value-added of Labor-intensive Industries	24	35	38

Note: The importance of LIIs to a province's economic growth is calculated by the value-added of LIIs divided by the value-added of all industries in the province.  
Source: Yearly Industrial Data 2006, China Data On-line, and author's calculations.

In comparison with Hunan, the importance of LIIs to Beijing's economy was lesser. This demonstrates that in Beijing, the government did not have to make high degrees of compromise with labor-intensive enterprises about the labor contract system in order to keep the province's economic growth. This provides the foundation

for the Beijing government to build a more rigid labor regulatory regime. On the other hand, in Hunan, LIIs had stronger leverage in the province, because the share of the LII's value-added in Hunan is larger than that in Beijing. This somehow explains why the Hunan labor regulations were weaker than those of Beijing. However, the Hunan officials still invested in building bureaucratic agencies to support the regulation of the labor market. As will be discussed in the next section, Hunan's plan largely resulted from the labor officials' bureaucratic interests to stay more powerful in the province.

For Guangdong, the government was less willing to supply more rigid labor policies because the development of LIIs is important to its economic growth, even though the flexible labor regulatory regime is likely to trigger more serious labor unrest. However, these privileges given to the business community were rescinded in 2007. The next section will discuss how the labor-intensive industries lost the game in 2007 when the provincial leader's aspirations for more political power triumphed over the concern about local economic growth.

#### **4.3 Political and Bureaucratic Incentives behind the Provincial Labor Policy-making**

As discussed in section 4.1, to construct a provincial labor regulatory regime to carry out the central pro-labor reform, similar to the national process, the PDLSS and the PFTU were the major actor. Top provincial leaders also had a role in the process in the sense that they could intervene in the policy-making if they did not see eye to eye with these labor officials. Accordingly, this section studies two types of local officials.

In addition to top provincial leaders, who can usually be regarded as the generalists (Shih 2009), I include a study of the career patterns of a particular sub-level provincial political elites, who enjoy a status called “*zheng di ting ji*,” signifying that they hold a director-level position within a provincial department. These particular bureaucrats usually falls into the “technocrats faction” in Shih's terms (2009). This level of officials who are in charge of the PDLSS and the PFTU are frequently critical of drafting provincial labor regulations. Due to the tradition of “departmental legislation”, many provincial regulations directly reflect these bureaucracies' interests.

To have a good grasp of these officials' promotion routes, I use data from various resources. Unlike the members of the CCP Central Committee, whose profiles are all listed on the official website of Xinhua News Agency and in the Dictionary of the Central Committee, the political résumés of many local officials are much less available. In order to deal with the problem, I first collect provincial yearbooks to get the name-and-title list of all the provincial labor officials with director-level positions, and then search those names in various Chinese newspapers and magazines, including *Renmi Ribao*, Xinhua News Agency, *Renwu Online*,<sup>137</sup> *Junzheng Online*,<sup>138</sup> provincial governments' official websites, and local newspapers, to gather the political résumés of local officials.

In China, top provincial leaders refer to the Provincial CCP Secretary, often regarded as the first hand (*yibashou*) of a province, and the Governor, as the second hand (*erbashou*). In addition to these two top leaders, the Provincial CCP Standing

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<sup>137</sup> See *Renwu Online* at <http://www.renwuonline.com/>

<sup>138</sup> See *Junzheng Online* <http://www.ourzg.com/>

Committee constitutes the third-level leadership in a province. The governing structure of a provincial-level region is illustrated in Figure 4.3.

Figure 4.3 Leadership Structure in Beijing, Hunan, and Guangdong, from 2007 and on.<sup>139</sup>

Provincial CCP Secretary

Governor

Provincial CCP Standing Committee (9-11 members in total):<sup>140</sup>

Beijing: Chairman of the MFTU (Liang Wei)

Provincial CCP Committee (81-93 members in total):<sup>141</sup>

Beijing: Director of the MBLSS (Zhang Xinqing)

Hunan: Director of the PDLSS (Zhao Xiangping),

Chairman of the PFTU (Liu Lianyu)

Guangdong: Director of the PDLSS (Liu Youjun 2008-2009;<sup>142</sup> Ou Zhenzhi 2009-),

Chairman of the PFTU (Deng Weilong)

Note:

MFTU: Municipal Federation of Trade Unions

PFTU: Provincial Federation of Trade Unions

MBLSS: Municipal Bureau of Labor and Social Security

PDLSS: Provincial Department of Labor and Social Security

As the Figure indicates, in most provincial-level regions, the Director of Labor Department and the Chairman of Trade Union Federation are on the Provincial CCP Committee, and not the Standing Committee. Beijing is an exceptional case, where the Chairman of the MFTU is on the Standing Committee, and hence has a higher political status. In all the three provincial-level regions, the 9-11 members of the Provincial

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<sup>139</sup> In the Figure, the leaders in Beijing were elected in the 10<sup>th</sup> Municipal CCP Congress in May 2007. As for Hunan, the leaders were from the 9<sup>th</sup> Provincial CCP Committee elected in December 2006. On the other hand, the Guangdong list was confirmed in the 10<sup>th</sup> Provincial CCP Congress in May 2007.

<sup>140</sup> The number excludes the Provincial CCP Secretary and the Governor. In Beijing, currently there are nine members on the Provincial CCP Standing Committee. In Hunan, there are ten members, and in Guangdong, eleven members.

<sup>141</sup> Currently, there are 84 members in Beijing, 81 members in Hunan, and 93 members in Guangdong.

<sup>142</sup> Liu was removed from the office in May 2009 due to corruption.

CCP Standing Committees usually include several Prefecture CCP Secretaries of the most important prefectures within the province, the CCP Secretary of the Provincial Commission for Discipline Inspection, the Minister of the Provincial Organization Department, the Minister of the Provincial United Front Department, the Minister of the Provincial Propaganda Department, etc. For the Director of the PDLSS and the Chairman of the PFTU, in principle, the potentiality of their political promotion is to be selected to these positions which usually guarantee the membership on the Standing Committee. Another way is to be selected to the MOLSS or the ACFTU in the central government.

While all government officials have the opportunities for promotion, they face different constraints. An official can try to demonstrate his loyalty and performance, but he can hardly get around some objective criteria such as age. According to “Provisions on the Retirement of Elderly Cadres” promulgated by the State Council in 1982, for most top officials, including Ministers in the central government (the level of “*zheng bu ji*”) and Party Secretaries and Governors at the provincial level, the retirement age is 65 years old. For cadres of one level below, including Bureau Chiefs (*sizhang*) in the central government, Directors of provincial departments (the level of “*zheng di ting ji*”), Ministers of CCP provincial ministries, and prefecture-level Party Secretaries, the retirement age is earlier at 60 years old (Article 2). Sometimes, these rules are not enforced, but since the early 2000s, the Chinese government has begun to be more serious about the rules on age. For example, in March 2001, Sheng Huaren and Zhu Lilian were removed from their positions as the Director of the National



Economic Committee<sup>143</sup> and the Minister of Science and Technology respectively, because they were 65 years old already then, although originally, their assigned term of office would not have ended until 2003. According to this new trend, if a Director of a Provincial Labor Department is in his 60s, there are fewer chances for him to have a promotion either to the central government or to a upper-level position in the province.

The age criterion constrains these officials' career opportunities. As the following discussion will illustrate, if a Director is young, and if he is in a region where his predecessors and many other former Directors of other departments all had chances to be promoted to the central government, he will be likely to choose a way to implement the central labor policy to signal that he deserves a move-up. On the other hand, if he is young but in a region where few former Directors ever had the chance to the central level, then he will pay more attention to maximizing the political power he can get in the province, given there is still a long time before his retirement. On the contrary, if the then Director of a Provincial Labor Department is already old in the early 2000s when the central pro-labor policy reform is launched, he will be less concerned about strongly implementing the central reform to enhance his political or bureaucratic power because he is going to retire from the office and has little chance to be promoted to other positions.

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<sup>143</sup> The National Economic Committee was under the State Council. It was abolished in 2003.

#### ***4.3.1 Provincial regulations as a signal to the central government***

In Beijing, the Labor Bureau and the Trade Union Federation worked together in making the detailed and rigid labor regulations. The rationale behind Beijing's endeavor resided in the fact that the officials of the two institutions aimed to use the rigid provincial regulations to signal the central government that they were seriously implementing the policy following the issuance of the central directives. By nature, Beijing's documents constituted overarching regulations that the central government expected to see after the central policy was announced. These regulations acted as a credible signal of compliance and cooperation reaching the central government's attention. Investing in these regulations was thus noticeable to the central government.

In Beijing, there is frequent traffic between various Municipal Bureaus and the Central Ministries. This has made many of the officials in the Beijing Labor Bureau pay more attention to the central Labor Ministry than to the municipal government. Records show that several former Directors of the Beijing Labor Bureau were upgraded to the central government after several years of service at the municipal level. For example, during the 1980s, Liu Zhihua, the then Vice-director of the Beijing Labor Bureau, was promoted to the Central Labor Ministry in October 1989. This tendency was not reversed during the 2000s, either. In 2008, You Lantian, the former Director of the Labor Bureau before 2001, was promoted to the CCP's Central United Front Department (*tongzhanbu*).<sup>144</sup>

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<sup>144</sup> See *Caijing Net*, December 2, 2008. <http://www.caijing.com.cn/2008-12-02/110033569.html>

Surrounded by the environment where chances of local officials to be promoted to the central government were high, the then officials in Beijing who were in charge of implementing the labor contract system in the 2000s had made efforts to find ways to send signals to the central government that the reform principles were being carried out in their jurisdictions. Engrossed in the political upgrades to the central government, the Director of the Beijing Labor Bureau, Zhang Xinqing, who was appointed to the job in 2001 when he was 45 years old, thus worked hard to propose rigid regulations to signal compliance to the central government.

For the Beijing Federation of Trade Unions, it was also successful in putting detailed rules favoring its role in regulating the labor condition. This largely resulted from the fact that the Federation was a strong bureaucracy in the government. Compared to other provinces where the Chairmen of the Trade Union Federation were only on the Provincial CCP Committees, the Beijing Chairmen were always members of the Standing Committee. One of the Chairmen who were responsible for implementing the labor contract system in the 2000s, Yan Anjiang, was moved up to be the Vice-secretary of the CCP in Beijing. His determination to make rigid pro-labor regulations during the years in the Trade Union seemed to be of help in achieving this appointment. As a research fellow informed me, “nowadays, for most technocrats or middle-level officials, professional ability is important. They might still need to have strong backgrounds and good connections, but top-notch performance on the job also helps them to stand out.”<sup>145</sup>

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<sup>145</sup> Informant 23. Interview conducted in Beijing on July 10, 2008.

Compared to Hunan where bureaucratic restructuring was the central agenda of the Labor Department in implementing the labor contract system, the Beijing Labor Bureau did not choose to do so. Unlike the Hunan Labor Department which wanted to use the restructuring to enhance its bureaucratic power in the province (as will be discussed in the next subsection), the higher opportunities to be promoted to the central level drove the Beijing labor officials to target the central government rather than the municipality. In addition, the historically fragmented bureaucratic structure in Beijing also prevented the municipal government from conducting any significant restructuring of the government's organization. As many studies have pointed out, the division of powers among horizontal levels within the Beijing government was persistently kept even. For example, during the process of urban health care reform, the fragmented bureaucratic structure in Beijing severely impeded the government's attempts to establish a comprehensive reform agenda (Aitchison 1997). Moreover, in their study on Beijing's development model, Segal and Thun find that the inability of the Beijing government to coordinate relations between various bureaus induced the city to develop the IT industry rather than the automobile manufacturing as Shanghai did (2001, 578). The equal division of power among different Bureaus in Beijing disabled the Labor Bureau from integrating other Bureaus into a government restructuring agenda.

#### *4.3.2 Bureaucratic restructuring as a measure for enhancing power within the province*

In Hunan, restructuring the bureaucracy to establish the Small Leading Group and the Liaison Mechanism was essential to the province's reform agenda. Although this by no means implies that Hunan did not promulgate rules to regulate the labor market, the province nonetheless did not pay full attention to making as rigid and detailed rules as Beijing did. The Hunan pattern to implement the central plan of was largely led by the Labor Department. While the Hunan Federation of Trade Unions also supported these policies, it was not the main initiator of the provincial agenda. As one of the members of the Legislative Affairs Division of Hunan's Labor Department informed me, "most of the reforms were initiated by the Labor Department, including making the drafts of provincial regulations."<sup>146</sup> Compared to Beijing, the Hunan Trade Union Federation was less influential during the process of regulating the labor market. The then Chairwoman of the Hunan Trade Union, Liu Lianyu was only a member of the Hunan CCP Committee, and not on the Standing Committee as the Beijing counterpart was. The weaker political status of the Hunan Trade Union was also revealed by the fact that most of the Hunan regulations do not provide the Trade Union with more power to implement the reform. For example, the 2003 Hunan Regulation does not have any single clause or chapter on collective contracts. The rules on the role of trade unions are also not detailed (See Appendix 4.6).

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<sup>146</sup> Informant 23. Interview conducted in Beijing on July 10, 2008.

The major impetus behind the Labor Department's move to be the key advocate of implementing the labor contract system was that the reform could help strengthen its power in the provincial government. Compared to the Beijing Labor Bureau, most officials in the Hunan Labor Department paid more attention to the province than to the central government. This is because the career paths of most Hunan technocrats were to be promoted to higher-level positions within the province, given that in the past, only few Directors or other officials at the level of “*zheng di ting ji*” had the chances to the central government. Moreover, before moved up to the current positions, most Directors had a career path that was very closely tied to Hunan. For example, the current Labor Department Director, Zhao Xiangping, was born in Xiangtan Municipality in the province, and has worked for Hunan since 1968. Zhao was a member on the Hunan Planning Committee from 1989 to 2000 before upgraded to the current position as the Labor Department Director in 2001 when he was 50 years old.<sup>147</sup> Being deeply involved in the Hunan political community, the officials in Hunan were less interested in positions at the central level. Accordingly, the Labor Department officials had less impetus to use detailed and rigid regulations to signal compliance to the central government. Enhancing the Labor Department's power within the province was more important.

As mentioned in the previous section, the labor assistants in the Hunan Labor Department were not pleased by the extra workload that came with the enhanced bureaucratic power of the Department. However, formal officials, including the labor commissioners and the cadres, were generally supportive of the plan. Labor assistants

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<sup>147</sup> See Hunan Yearbooks (various years) and the official website of the Hunan Labor Department.

(*laodong baozhang xieguan yuan*) and labor commissioners (*laodong baozhang zhuanguan yuan*) are the two kinds of administrators who work at the grassroots level, dealing with the actual practice of regulating the labor market, such as inspecting enterprises and advertising the reform. Labor commissioners are civil servants of the government, and need to pass the general civil servant exam before being recruited. Their salary is paid by the budget of the Labor Department. The number of commissioners that a Department could have is officially assigned by the provincial government, and these commissioners are part of the “establishment of posts”, namely “*bianzhi*” in Chinese.

On the other hand, ever since the central government launched the program of regulating the labor market, many Provincial Labor Departments have helped their lower-level Labor Bureaus to recruit more labor assistants to facilitate the process of implementing the central policies. Labor assistants are not part of the *bianzhi*, and their salary has nothing to do with the Departments' assigned budget. In many provinces, most labor assistants are originally SOE laid-off workers. Some of them served as trade-union assistants before. A labor assistant is not admitted through the general civil servant exam, but is supposed to pass the given Department's special exam in order to be recruited.

In Hunan, there were myriad complaints from labor assistants about the enormous workload. One labor assistant complained, “we share the heaviest workload, but we're like temporary workers compared to the formal staff such as the labor

commissioners and the cadres, and our wages are much lower.”<sup>148</sup> Moreover, given that they were not formal civil servants of the government, but were hired directly by the Labor Department, the chances of transferring their official records (*dangan*) to other departments was slim, and thus it was hard to be promoted to other departments. It was also difficult for them to be upgraded to a higher status within the same department. As the same labor assistant stated, “the leaders of our department usually came from the formal staff, or from other places.”<sup>149</sup>

This displays the divergent career paths of labor commissioners and assistants. Generally speaking, labor commissioners' political interests were tied to the Department, and a more powerful Department was always to their benefit. Extra workloads did not bother labor commissioners too much, because they could always assign the tasks to labor assistants, allowing them to pay more attention to meeting with higher-level officials for their own political promotion in the province.<sup>150</sup> This phenomenon was widespread across provinces. In the case of Hunan, the Labor Department successfully negotiated with other Departments for more tasks, and it did not encounter massive resistance at the grassroots level from labor assistants, because the labor commissioners were generally supportive of the leaders' activities. The Hunan Labor Department achieved restructuring the government with a goal to enhance its bureaucratic power in the province. Accordingly, the Hunan case illustrates a situation where the Labor Department Director who had more chances to stay influential in the province than to be promoted to the central government took

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<sup>148</sup> Informant 34. Interview conducted in Yiyan, Hunan on May 23, 2008. Many comments at internet forums confirmed this interview.

<sup>149</sup> Informant 34. Interview conducted in Yiyan, Hunan on May 23, 2008.

<sup>150</sup> Informant 37. Interview conducted in Yiyan, Hunan on May 25, 2008.



advantage of implementing the labor contract system to enhance its bureaucratic power through restructuring the government structure such as establishing the Small Leading Group and the Liaison Mechanism in the province.

#### ***4.3.3 Flexible labor regulatory regime as a result of the low chance of political promotion***

In comparison to Beijing and Hunan, before 2007, Guangdong's labor regulatory regime was the most flexible one. The failure of Guangdong to build a rigid regulatory framework directly resulted from the unwillingness of the Labor Department and the Federation of Trade Unions to regulate the non-state sector. Similar to Hunan, labor officials in Guangdong did not have good chances to be selected to the central government, and hence making rigid labor regulations to implement the central pro-labor reform was not an urgent concern. In fact, many Guangdong officials were parochial-type bureaucrats who were deeply involved in local political and economic networks, and had no interests in any promotions if they needed to leave the town.<sup>151</sup> For those who still had aspirations for political promotion, similar to Hunan, the general pattern was to be selected to higher-level positions within the province, and not to the central government. For example, Sun Qingqi, who in 2000 served as the Vice-director of the Labor Department (at the level of “*fu di ting ji*” in the Chinese bureaucratic structure), was promoted to the Directorship of the

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<sup>151</sup> Informant 46. Interview conducted in Shenzhen, Guangdong on January 15, 2008.

Guangdong Pricing Bureau in November 2005 (at the level of “*zheng di ting ji*”).<sup>152</sup>

Without strong chances to be moved up to the central level, the Labor Department officials did not focus on drafting rigid regulations to support the central pro-labor policies.

But unlike Hunan labor officials, while most Guangdong counterparts paid more attention to the province than the central government, the Guangdong Labor Department did not engage in many activities to enhance the bureaucratic power in the province. On the contrary, the then Director of the Guangdong Labor Department, Fang Chao-gui, who was in office from 2000-2007 during the period of central pro-labor policy reform, proposed some bills that were deemed as anti-labor. In 2005, Fang suggested that female workers' retirement age should be raised to the same year as male workers'. Currently, the retirement age for female workers in China is ten years earlier than male workers. According to the “Interim Provisions on the Retirement of Staff and Workers” promulgated by the State Council in 1958, the retirement age for male staff is 60 years old and for female staff is 55. Fang recommended that both genders should not retire until the age of 60. Fang's proposal triggered massive resistance from the working class, especially from SOE laid-off workers, because this action would delay their receiving of pension funds. For these workers, when they were forced to leave their original SOEs in the late 1990s under the plan of SOE privatization and corporatization, they had hard time to get re-employed. As many of these laid-off workers were the so-called “4050 people,” namely 40-year-old female workers and 50-year-old male workers, according to the

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<sup>152</sup> See 2006 Guangdong yearbook and the official website of the Guangdong provincial government.

current regulation on the retirement age, they only needed to wait for ten years to receive their pension. If the retirement age was raised to five years older, then SOE laid-off female workers would need to wait for more years.<sup>153</sup> At the same time, the proposal was not supported by the unemployed or unskilled outside workers either, because keeping the already-hired and skilled inside workers in enterprises would reduce employers' willingness to hire new workers. Just a few days after Fang's proposal was released to the public, many petitions were sent to newspapers against Fang's idea.<sup>154</sup> Some internet forums even created pages to ask the government to discharge Fang.<sup>155</sup>

This example shows that the Guangdong Labor Department did not always support pro-labor policies, even when protecting the disadvantaged has become a central doctrine under the Hu-Wen administration. More importantly, Fang's proposal actually explicitly ran against the central government's agenda. While the issue of retirement age has been under debate by some Chinese scholars, the central Labor Ministry has made it clear that this was a sensitive issue and the central government had no plan to change the current system in the near future.<sup>156</sup> The major reason why the Guangdong Labor Department was not always fully following the central pro-labor agenda is that these labor officials did not aim to use the pro-labor reform to enhance their bureaucratic power or political status. Their economic interests and relationships with the local business community trumped over the attempts to be more

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<sup>153</sup> Yangcheng Newspaper, March 03, 2005.

<sup>154</sup> Sina Guangdong News, March 08, 2005. <http://gd.news.sina.com.cn/local/2005-03-08/1092555.html>

<sup>155</sup> For example, some people created such a page on Baidu.com.

<sup>156</sup> Xinhua News Agency, Sep 14, 2004. [http://news.xinhuanet.com/fortune/2004-09/14/content\\_1979183.htm](http://news.xinhuanet.com/fortune/2004-09/14/content_1979183.htm)

bureaucratically powerful in the province. In fact, Fang retired from the position in 2007 when 60 years old and was not given any further political positions later.

Guangdong's reluctance to increase the rigidity of its labor regulatory regime was also brought to light by the fact that before 2007, the Labor Department was relatively weak in the province. Unlike his successors, Liu Youjun and Ou Zhenzhi, who were in office after 2008 and had the membership in the Guangdong CCP Committee, Fang Chao-gui, the Labor Department Director from 2000-2007 during the central pro-labor reform, was only an alternative member on the 9th Guangdong Committee in 2002. This shows that protecting labor rights was not as important for the province as for Beijing and Hunan, because the Guangdong Labor Department was not granted the same level of political status as the Beijing and Hunan counterparts were.

At the same time, the leadership structure of the Guangdong Federation of Trade Unions also displays the province's disinclination to build a rigid labor regulatory regime. The then Chairman of the Guangdong Trade Union during the period of central pro-labor policy reform, Tang Weiying, was appointed to the office in 2001 when he was already 59 years old. Although Tang did not retire at the age of 60 when he was supposed to according to the 1982 Regulations and continued to serve as the Chairman until 2007, it was not hard to imagine that Tang did not have deep interests to promote the bureaucracy's power, because he would be asked to leave the office at any time. In general, the incentive of Guangdong labor officials to regulate the labor market was not strong.

#### ***4.3.4 Provincial leaders' intervention as a signal to the central leader***

The Guangdong government only began to actively make policies to expedite the process of regulating the labor market in 2007, when Party Secretary Wang Yan was appointed to the province.<sup>157</sup> Around the end of 2007, Wang and the Governor Huang Huahua launched a campaign of industrial upgrading to demonstrate their competence to implement the central government's new agenda of regulating the labor condition in the non-state sector. To facilitate the new task, the newly appointed Directors of the Labor Department from 2008, Liu Youjun and then Ou Zhenzhi, were given the membership in the Provincial CCP Committee, unlike the former Director Fang, who was only an alternative member.

Wang's endorsement of the labor contract system in the non-state sector was driven not only by his desire to demonstrate the ability to execute the central plan and to maintain social stability, but also by his incentive to signal to the central government his loyalty toward following the central government's new development mode of economic upgrading. When Xi Jinping was thought by many Chinese political observers to be the next top leader, Xi's industrial policy in Zhejiang Province when he was the Provincial Party Secretary in 2005 was regarded by many political actors as the central government's new mode of economic development. According to Xi's experience in Zhejiang, regional economic development should target the domestic market and reduce reliance on foreign investment. In this plan of economic

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<sup>157</sup> The former party secretary of Guangdong (2002-2007), Zhang Dejiang is widely thought of by many political observers as an official in good standing with the former top leader Jiang Zemin, but not with the current leader, Hu Jintao.

upgrading, “emptying the cage for new birds” was the core slogan. As Xi was thought to be selected over Li Yuanchao of Jiangsu Province and Zhang Dejiang of Guangdong Province as the national prospective top leader in 2007, the Zhejiang agenda of upgrading the economic structure and eliminating dependency on foreign enterprises defeated the Jiangsu mode (where the Township and Village Enterprise had accounted for the largest economic share) and the Guangdong mode (which had relied on export-oriented foreign-invested labor intensive manufacturing enterprises).<sup>158</sup> As a political actor with a strong aspiration for, and a good possibility of, entering the central top leadership group, given that Wang was only 52 years old in 2007 when appointed to Guangdong, the Party Secretary deliberately directed the campaign of economic upgrading echoing the slogan of “emptying the cage for new birds,” namely kicking out labor intensive manufacturing enterprises and moving in high-technology and capital-intensive ones. Regulating the labor market served as a persuasive signal to the central leaders of his cooperation with the new reform mode.<sup>159</sup> There were thus several pro-labor policies announced in the province as indicated in section 4.1.3. The strong political incentive of top provincial leaders to be promoted to the central leadership group transformed the original flexible labor regulatory structure and brought in several rigid labor rules to it. This new regime directly led to the run-away of many labor-intensive manufacturing enterprises which used to rely on the management-biased preferential policies offered by the provincial government.<sup>160</sup>

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<sup>158</sup> See *Duowei Monthly*, June 2008.

<sup>159</sup> See *Duowei Monthly*, February 2009.

<sup>160</sup> Informant 47. Interview conducted in Guangzhou, Guangdong on June 10, 2008.

#### **4.4 Conclusion**

The case studies in this chapter have informed us the basic logic of Chinese provincial labor policy-making. Based on the discussion, I will generate several hypotheses in the next chapter about under what conditions a local labor bureaucracy acts on behalf of workers' voices. First, potential labor unrest is not an adequate answer to the question of why local officials make policies that favor the working class. The three studied regions face different levels of potential unrest. As the number of employees in labor intensive industries outweigh that of other industries, the Guangdong government is under the most considerable pressure of labor protests. In comparison, the potential degrees of labor unrest in Beijing and Hunan are relatively lower. But the labor regulatory regimes in these two regions are more rigid. This tells us that the concern about labor unrest and the wish for social stability itself is not a satisfying answer to why a local government builds a pro-labor regime.

Second, my study on the incentive structure of the heads of Provincial Labor Departments and Provincial Federations of Trade Unions shows that, when these officials have better chances to be promoted to the central level, constantly drafting rigid labor regulations serves as a signal to the central government that they are loyal and competent, as illustrated in the Beijing case. When the chance of promotion to the central level is low, if a local labor director will not retire from the office soon, he will be likely to take the opportunity to implement the central reform in a way that enhances his bureaucratic power in the provincial government. As in the Hunan case,

the implementation of the labor contract system centers its efforts around bureaucratic restructuring such as creating the Small Leading Group to integrate the different departments in the provincial government, and establishing the Liaison Mechanism to coordinate all the local governments below the provincial level. In these two cases, even if the potentiality of labor unrest is not particularly high, labor officials still promote pro-labor policies. The major motivation behind this action is not to protect workers, but to increase their own political power.

On the other hand, a labor official will choose to speak for the business community and not for the working class when there are slim opportunities to the central government, and when he will retire from the office very soon. As in the Guangdong case, labor officials can be captured by the personal ties with the local business community in the labor policy implementation process. This inclination is intensified by the province's industrial structure. In Guangdong, labor-intensive enterprises account for almost 40% of its GDP growth. The province's high degree of labor flexibility only starts to decrease when the top provincial leaders, who have strong aspirations and good opportunities to be promoted to the central government, intervene in the current system and initiate pro-labor administrative activities to send signals to the central leaders of their loyalty and competence to comply with the new development mode. The conclusion drawn from the case studies on the three regions provides the foundation for hypothesis testing in the next chapter.



## **Chapter Five**

### **Career Prospects and Local Socio-bureaucratic Synergy:**

#### **The Regulation of the Labor Market in Thirty-one Provincial-level Regions**

This chapter statistically assesses the conclusion drawn from the last chapter. According to the case studies on Beijing, Hunan, and Guangdong, in the 2000s, when Labor Department Directors and Trade Union Federation Chairmen had high expectations to be promoted to the central government or to stay bureaucratically stronger in the region, they tended to make more rigid rules to regulate the labor market under their jurisdictions. Based on the discussion, the chapter will examine all the thirty-one Chinese provincial-level regions to test the following hypothesis: when labor officials have good career prospects, they will implement the central agenda of regulating the labor market and promoting labor rights with a great deal of efforts. The rationale behind this action is that active implementation of the pro-labor policies is helpful for labor officials' future careers.

The analysis precedes as follows. First, I will discuss how to measure Chinese provinces' annual labor policy implementation. In addition to their published labor rules and government restructuring, I will examine the provincial yearbooks and construct a synchronized index to measure the degree of labor market rigidity across provincial-level regions. The second part of the chapter is devoted to the study of the incentive structure of Chinese local officials, particularly the directors of provincial labor departments, the chairmen of provincial federations of trade unions, and

provincial party secretaries. Under the cadre management system, these officials are constrained by higher-level governments' monitor, especially when they have strong expectations for more political power. I will show that officials' career expectations are a function of their personal characteristics and past working experiences. In the third section, the chapter will employ two ordered logistic regressions to test whether local labor officials (namely Labor Department Directors and Trade Union Federation Chairmen) with higher levels of career prospects make more efforts to regulate the labor condition to signal their loyalty and competence to comply with the central government's new reform agenda. Section four gives my brief conclusion.

## **5.1 The Regulation of the Labor Market in China's Thirty-one Provincial-level Regions**

As the last chapter indicates, Chinese provinces' efforts to implement the central pro-labor policies were crystallized in making labor regulations and restructuring the provincial bureaucratic structures. In addition to governmental regulations and administrative activities, we can also examine the actual outcome of labor policy implementation to see how the central reform was carried out at the provincial level. In China, the only source to find out how many workers were hired with written labor contracts is the official provincial (municipal) yearbooks.<sup>161</sup> However, the data recorded in these yearbooks do not necessarily reflect the real situation. In fact, most provinces tend to exaggerate their performance in the

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<sup>161</sup> The Labor Statistical Yearbooks published by the MOLSS do not have this information.

yearbooks (see later discussion in this chapter). It is thus actually impossible to know the real numbers of labor contracting from the yearbooks.

But official yearbooks still reveal important information about how regional governments *intend* to comply with the central government. In China, every provincial-level government publishes its own yearbook at the end of each year to record its performance in implementing all kinds of central directives. Most yearbooks have sections about provincial party secretaries' major activities, such as their visits to some localities in the provinces, and the regions' overall economic and social development. In practice, these records serve an important function to show off or display (*biaotai*) provincial-level governments' performance (*zhengji*) and loyalty (*zhongcheng*) to the central government. While it is unlikely to know the real situation of labor contracting from the yearbooks, we can sense a general picture of how provincial-level governments *try* to or *wish* to echo the central reform direction.

Scholars have found that Chinese local officials are inclined to publicly flaunt their loyalty in order to signal the affinity to a particular leader (Shih 2008). In Shih's work, major provincial newspapers are the source to know how provincial leaders “nauseatingly” show off their loyalty (Ibid.). This dissertation finds that yearbooks tell a more direct story about local officials' intention to display their compliance, because yearbooks are published by regional governments themselves. Another advantage of using yearbooks to study government officials' behaviors resides in the fact that different sections in the yearbooks are written by different provincial departments within the governing structures including the governments and the party apparatuses, and hence we can look into these sections to understand a certain department's

intention to implement a central agenda. For example, the Provincial Bureau of Industry and Commerce is responsible for reporting whether market competition in the region has been guaranteed, the Provincial State-owned Assets Supervision and Administration Commission is in charge of recording how provincial SOEs are regulated, and the Provincial People's Congress is to record the making of provincial rules. As far as labor policies are concerned, every region's Department (Bureau) of Labor and Social Security (DLSS) is the one to write the report regarding the implementation of the labor contract system in both the state and the non-state sector, and the Provincial (Municipal) Federation of Trade Unions (PFTU) is to record the achievement of organizing trade unions and promoting the collective contract system. We can thus read these sections in the yearbooks to know the attitudes of these labor officials in complying with the central pro-labor agenda. By doing this, the researcher is able to include a study on the labor officials' role in the policy-making process, rather than merely focusing on the action of top provincial leaders, as we have already seen from the case studies in the last chapter that local labor officials are the major actor in the process.

Accordingly, this chapter conducts analyses on the labor issues recorded in all the thirty-one regions' yearbooks to have a good grasp of how the policy of regulating the labor market is perceived by regional governments. In addition to the aforementioned advantages, another rationale to use yearbooks to measure local governments' efforts is that unlike governmental regulations which are not promulgated or revised every year, yearbooks have data on each government's annual

performance. This enables the author to trace the changes of labor officials' behaviors across years.

To analyze a written record, the basic way is to conduct word frequency counting and sorting (Lowe). A researcher can count how many times a particular word is mentioned in a text. Following the logic, two steps are introduced when coding these provincial-level yearbooks. First, I focus on all the keywords related to the regulation of the labor condition in the 2000s. As discussed in chapter three, when the central government launched the labor market reform in the 2000s, the focus was to require enterprises to sign labor contracts and to organize trade unions. At the regional level, Labor Departments and Trade Union Federations were responsible for making sure enterprises' compliance with these rules, and these two tasks were both recorded into the yearbooks to be part of the governments' display of performance and loyalty. The way in which different regions recorded these tasks diverged from each other, however. Some regions emphasized their achievement in regulating the non-state sector, while others just reported the improvement of the overall labor condition. In addition, not all of the regions wrote down the detailed information about the labor contracting rates. Some provinces published the individual and collective labor contract signing rates in enterprises with different ownership structures, but others only had the overall rates or did not record any related information. Given these variations, for those who provided more detailed information, we can say that they had paid more attention to the pro-labor reform and tried to put it into practice for the purpose of sending signals to higher-level officials of their efforts in implementing the pro-labor agenda.

Second, I only count those sentences that clearly indicated how successful the task of regulating the labor condition was achieved. Due to the fact that yearbooks were published for showing off regional governments' performance, it is not surprising that most governments tended to exaggerate what they had done. In fact, sentences without any real meaning were everywhere in these yearbooks. For example, in most yearbooks, the section about labor protection usually began with a sentence like “under the lead of the provincial CCP committee, the labor department enthusiastically embraced the concept of scientific development (*kexue fazhan guan*) to actively maintain harmonious and stable labor relations.” In some yearbooks, the only achievement mentioned was that the government had fulfilled the requirement set up by last year. While all of these “lip-service sentences” could serve as signals of labor officials' compliance, sentences that recorded the numbers of achievement would be more credible. Accordingly, I only count those with numbers in my measurement. For example, I include sentences which indicated how many individual and collective labor contracts had been signed in the region, and how many enterprises had been inspected already, but not those which just mentioned that the regional government had successfully inspected enterprises and forced them to sign labor contracts. That is to say, only those words that reported numbers are counted. By doing this, we can have a better capture of the regional governments' intention of labor policy implementation.

As discussed in Chapter Four, if labor officials expect a promotion to the central government, they will make regulations to signal to central leaders their loyalty of complying the reform agenda. If the desire is to stay more powerful in the province,

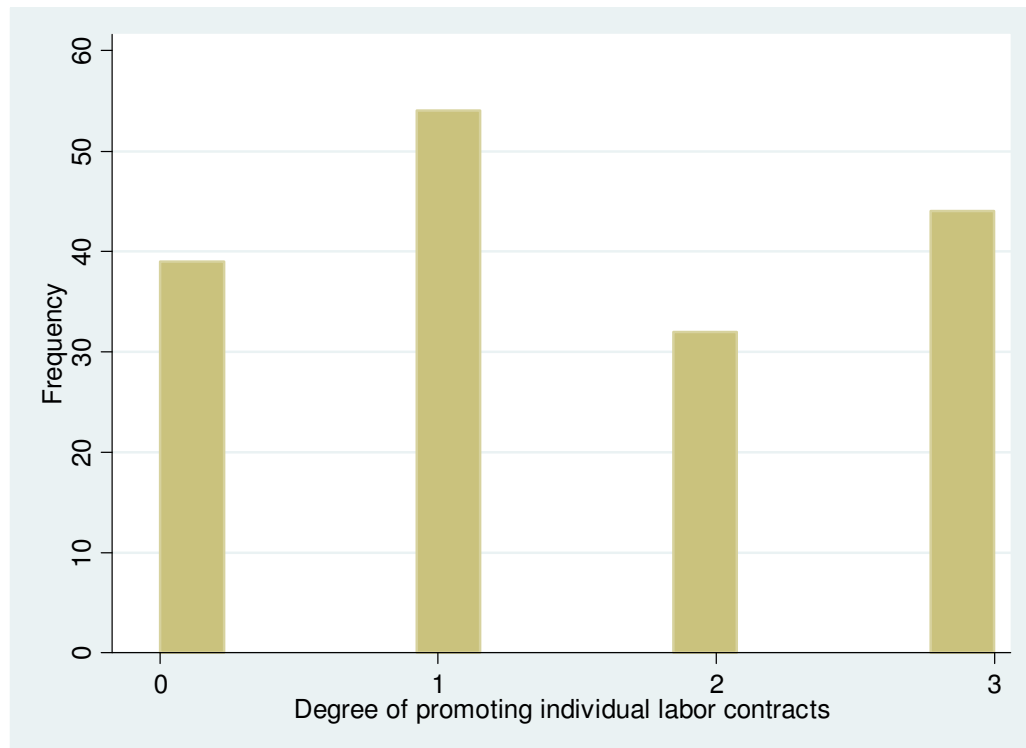
they can restructure the bureaucracies to establish a small leading group to empower the labor department. In this chapter, I do not, however, distinguish these two patterns from each other when examining the yearbooks, given that they both aim to implement the pro-labor reform. For this chapter, I will focus on measuring the *degree*, and not the pattern, of provincial governments' overall regulation of the labor market.

The records about regulating the labor market in the yearbooks could be divided into two major categories, according to the nature of these tasks. For promoting individual labor contracts, it was more related to Labor Departments' supervision, while organizing trade unions and promoting collective labor contracts were under Trade Union Federations' direct charge. Therefore, I use different sets of index to examine these two tasks. The code list for analyzing the content of provincial-level yearbooks regarding individual labor contracting is presented in Appendix 5.1, while the list for examining the sentences in yearbooks on collective labor contracting is shown in Appendix 5.3.

First, for regional governments' promotion of individual labor contracting, in addition to the records in the yearbooks, Chapter Four have analyzed provincial regulations and government structures to measure regional labor regulatory regimes. This chapter integrates all of these indicators, namely government regulations, small leading groups of labor contracting, and the records on labor protection in provincial-level yearbooks, into a synchronized index to measure Chinese regions' promotion of individual labor contracts. (See Appendix 5.2 for the synchronized index of promoting individual labor contracting.) Based on this new synchronized index, I calculate the degree of all the thirty-one regional governments' promotion of individual labor

contracts from 2001-2008, and construct a cross-section time-series data set. The results range from 0 to 10 points, and are grouped into four ordered categories from 0-3. For those observations whose synchronized points are from 0-3, they are grouped into degree 0. If synchronized points are from 4-5, they are equal to degree 1; synchronized points 6-7 are grouped into degree 2; synchronized points 8-10 are grouped into degree 3. (See Figure 5.1). The rationale for grouping all the observations into a smaller number of categories is to minimize potential measurement errors.

Figure 5.1 Regional Governments' Promotion of Individual Labor Contracting, 2001-2008.



Notes: Along the horizontal axis, 0 stands for the lowest degree of the promotion of individual labor contracting, and 3 is the highest degree.

Frequency indicates the number of observations at a certain degree of promoting individual labor contracts.

Units are province-years (e.g. Beijing 2002, Beijing 2003, Hebei 2005, Hebei 2006, Shandong 2007, etc.).

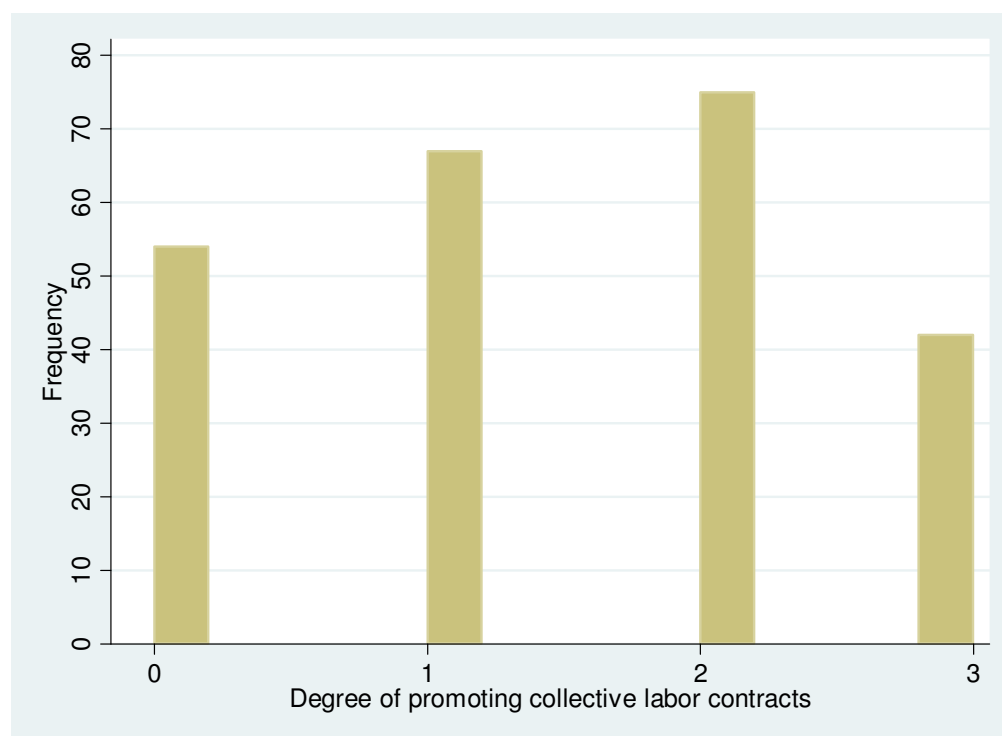
Total number of observations: 169.

Source: Author's database.



On the other hand, for the task of regulating collective labor contracts, I examine the records in provincial-level yearbooks. The code list for differentiating the degree of promoting collective labor contracts is provided in Appendix 5.3. The 31 regions' performance from 2001-2008 is grouped into four ordered categories from 0-3. For those observations whose points in the yearbooks are from 0-4, they are grouped into degree 0. Points 5-8 are grouped into degree 1; points 9-12 are grouped into degree 2; points 13-16 are grouped into degree 3. (See Figure 5.2).

Figure 5.2 Regional Governments' Promotion of Collective Labor Contracts, 2001-2008



Notes: Along the horizontal axis, 0 stands for the lowest degree of the promotion of collective labor contracting, and 3 is the highest degree.

Frequency indicates the number of observations at a certain degree of promoting collective labor contracts.

Units are province-years (e.g. Beijing 2002, Beijing 2003, Hebei 2005, Hebei 2006, Shandong 2007, etc.).

Number of observations: 238.

Source: Author's database.

To explain the variations of regional governments' promotion of individual and collective labor contracts across years, I go back to my hypotheses generated from the last chapter. The next section discusses the measurement of labor officials' career prospects.

## **5.2 Career Prospects of Labor Officials**

Drawn from my three case studies, the Directors of Provincial Labor Departments and the Chairmen of Provincial Trade Union Federations are the key actors in regional regulation of the labor market. On the one hand, these officials may be vulnerable to be captured by local business community, but on the other hand, they may also have political aspirations and promotion expectations for higher-level positions. In this section, I discuss how they balance between these two incentives. I argue that when the political incentive trumps, there will be synergy between provincial labor officials and the working class. These labor officials become a “bureaucratic representative” for the working class to promote pro-labor policies.

Unlike most existing studies which focus on the role of top provincial leaders in local policy implementation, my research on regional labor officials' career prospects clearly stands out. These officials are not “generalists” such as provincial party secretaries or city mayors (Landry 2008). They usually fall into the “technocrats faction” in Shih's terms (2009). In China studies, few works have systematically analyzed the career pattern of this type of officials. Local labor officials' career

expectation refers to their prospects to be promoted to higher-level positions or to stay bureaucratically stronger in the provinces. In practice, Chinese officials face possibilities of position change before their terms actually end. While one term is five years and there is no rule about term limits, many officials do not serve in office for the full length of five years, and are to be dismissed or promoted to other positions before the end of the term. As shown in the last chapter, in the 2000s, Chinese officials' expectation is highly influenced by their age. When an official is going to retire soon, he will not have strong career prospects to be promoted, or to have more bureaucratic power in the region. In addition to age, officials' career prospects is also a function of other personal characteristics and past working experiences. When these labor directors and trade union chairmen are evaluated by provincial CCP Organization Departments, age, gender, ethnicity and seniority all matter. Accordingly, to calculate local labor officials' political prospects, this chapter collects the political résumés of all the Directors of Provincial Labor Departments and the Chairmen of Provincial Trade Union Federations in the thirty-one provincial-level regions who served in office from 2001-2008.

The collection of these officials' profiles is challenging. First, while it is not too difficult to know who are the current heads of Labor Departments and Trade Union Federations through regional governments' official websites, the names of former directors and chairmen are not easy to find out. To deal with the problem, I look into yearbooks to get the name-and-title list of all the provincial labor officials with director-level positions. But still, this does not solve the problem. Some regions do not record the name list of these officials, so there are quite a few missing data here.

Second, even when the name list is known, unlike provincial party secretaries whose profiles are all listed on the official website of Xinhua News Agency, the political résumés of Labor Department Directors and Trade Union Federation Chairmen are much less available. For Chairmen, some of their biographical notices can be found in the official Trade Union Yearbooks published by the ACFTU. The MOLSS's Labor Yearbooks, however, do not have this kind of information for Labor Department Directors. This chapter relies on a variety of sources to collect labor officials' career information.<sup>162</sup> Combining all of them, I construct a cross-section time-series data set of the political résumés of director-level labor officials.

Overall, local officials' career prospects are a function of their age, gender, ethnicity, birth place, education, seniority in the CCP, past working experiences in the municipalities within the provinces, and past positions in the Youth League. For age, in the 2000s, most officials with a status called “*zheng di ting ji*,” including Labor Department Directors, are in their early 50s when in office. For Trade Union Federation Chairmen, the average age is late 50s and some of them did not retire when older than the legal retirement age at 60. Table 5.1 shows the age distribution of these labor officials.

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<sup>162</sup> These sources include various Chinese newspapers, websites and magazines, such as *Renwu* Online (*Renwu Tong* at <http://www.renwuonline.com/>), *Junzheng* Online (*Junzheng Zaixian* at <http://www.ourzg.com/>), *Renmi Ribao*, Xinhua News Agency, *Caijing* Net, *Duowei* Monthly, provincial governments' official websites, and local newspapers.

Table 5.1 Age Distribution among Provincial Labor Department Directors and Trade Union Federation Chairmen, 2001-2008

	N	Mean	Std. Dev.	Min.	Max.
The Age of Labor Department Directors in Office	169	52.63	3.81	39	60
The Age of Trade Union Federation Chairmen in Office	238	56.41	4.37	45	65

Source: Author's database.

For gender and ethnicity, when other characteristics are equal, the career prospect will be better if an official is female or a minority. At the same time, an official is likely to have higher career expectations if he is more well-educated. For seniority in the CCP, the chance to be promoted will be decent if an official has become a CCP member for a long time. The expectation can also be higher if an official was born in the same province for which he is working, because he is supposed to have better connections in the province, given the long stay in the same place. Moreover, past working experiences also have significant impacts on officials' career calculation. In China, a promising official usually has many local experiences. At the central level, the conventional practice is to send important political elites to several provinces before promoting to the leadership group in the central government. At the regional level, officials who have served in leadership positions in more municipalities in the province are likely to be rising stars. The expectation is hence higher if an official has more municipal experiences before he becomes the province's Labor Department Director or the Trade Union Federation Chairmen. In addition to local experiences, connections with the Youth League is thought to be positive for

political promotion in the Hu-Wen era. If an official is from the Youth League, his career prospect will be more brilliant.

Based on the discussion, I employ a simple equation that adds all of these personal attributes together to measure labor officials' career prospects. Regarding the variable of age, some studies have found that its effect may not always be linear (Li and Zhou 2005, 1749). To capture the nonlinear effect, I calculate how many years remain before a director or a chairman will be 60 years old, and group these officials into two categories. In a given year, a director can have more than five years left until the retirement age at 60 (coded 1); or just five years or less than that (coded 0). The equation differentiates Chinese labor officials' career prospects into three groups: low, medium, and high. In the next section, I will statistically examine whether the variations shown in Figure 5.1 and 5.2 can be explained by labor officials' different degrees of career expectation.

### **5.3 Modeling Regional Behavior:**

#### **The Impact of Career Prospect on Labor Policy Implementation**

This section tests the impact of labor officials' career prospects on their pro-labor policy implementation from 2001-2008 across the thirty-one provincial-level regions. Two hypotheses are generated based on my diverse case studies on Beijing, Hunan, and Guangdong. The first one concerns Labor Department Directors' career expectation and regions' annual performance in promoting individual labor contracts;

the second one examines the role of Trade Union Federation and the annual regulation of collective labor contracts.

**Hypothesis One: The degree of a regional government's promotion of individual labor contracts (SYNINDI) increases with the career prospect of its Labor Department Director (LABORC).**

To test this hypothesis, I focus on the career prospects of all Labor Department Directors from 2001 to 2008 whose political résumés are available. Based on Figure 5.1, we see that the degree of individual labor contracting across province-years is categorical and not continuous. Moreover, due to the fact that these levels are ordered strictly along a single dimension from 0 to 3 degrees, I estimate a cross-section time-series ordered logistic model, a suitable approach for evaluating the categories of an ordinal dependent variable that can be ranked (Long and Freese 2001).

Several variables are controlled.

1) The role of provincial party secretaries (SECREC)

Provincial party secretaries are the top leaders of provinces and are responsible for provinces' overall development. Their attitudes to the labor reform is critical to how regional labor officials, who are under provincial party secretaries' supervision, act in the process of labor policy implementation. Similar to labor officials, provincial leaders' attitudes depend on their promotion expectation. Since the 2000s when the central agenda of regulating the labor market is initiated, provincial leaders who have higher prospects of promotion are supposed to be more interested in implementing the

labor contract system, because this is one of the ways to send signals of their loyalty of complying the central reform agenda.

For provincial party secretaries, their promotion prospects are also a function of personal characteristics, including age (required to retire at 65), gender, ethnicity, and connections with the Youth League, as well as their past working experiences in other provinces, given that a promising political actor is usually equipped with bunches of regional experiences. In addition, if a provincial party secretary has served in leadership positions in the central government before, this may allow him to maintain stronger connections with the central officials, which will likely turn out to be helpful for his future career (Li and Zhou 2005, 1749). As for education and seniority in the CCP, these characteristics are not very important to determine provincial top leaders' political promotion, because almost all provincial party secretaries have high-level education and are very senior in the CCP.

In addition to personal attributes, many studies find that good economic performance is likely to result in better turnover prospects (Landry 2008; Li and Zhou 2005). Accordingly, I include provinces' annual GDP growth into the calculation of party secretaries' career prospects. If a province's GDP growth is high, the province's leader will have better career expectation.<sup>163</sup> For data collection, China's National Bureau of Statistics have all the records of GDP growth across 31 regions.

## 2) The degree of potential labor instability (lagged by one year) (UNREST)

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<sup>163</sup> As for directors of the labor departments and the chairmen of trade union federations, their major task is to implement the labor policy. Given that they are not responsible for the provinces' overall economic growth, provincial GDP growth is not likely to affect their career expectation. Therefore, provincial GDP growth is not included in my calculation of labor officials' career prospects.



According to the conventional wisdom about regime stability, an autocrat will be more eager to preemptively promote the rights of the socially disadvantaged for the purpose to prevent their grievances from deteriorating into serious unrest or even revolution. At the regional level, a local government may also make more efforts to improve the labor condition if its worry about the potential labor unrest is high. As discussed in the previous chapter, the degree of potential labor instability can be measured by the share of employees in labor-intensive industries (LIIs) in a region. When more workers are hired in LIIs, the potentiality of labor unrest will be more detrimental to the maintenance of the region's stability.

3) The resistance of the business community to the pro-labor reform (lagged by one year) (BUSINESS)

LIIs are the major loser of the regulation of the labor market because the labor cost is likely to increase. Facing the reform, the business community may lobby local governments in the policy implementation process to make sure the pro-labor rule is not carried out in their own enterprises. In theory, the business community has greater leverage in blocking the pro-labor reform if the province's economy relies more on the development of LIIs. Based on the logic, I calculate the share of LII's value-added to all industries' in a given province to measure the leverage of the business community in the pro-labor policy implementation process.

4) Percentage of the subsidy from the central government in a region's total fund (SUBSIDY)

In theory, a regional government will have less autonomy and discretion about policy implementation if it relies more on the central government's subsidy.

Accordingly, I calculate the share of subsidy from the central government in a region's total source of fund. The data are originally recorded by the Ministry of Finance and can be obtained from the China Premium Database in the CEIC Data.

5) Share of the number of non-state enterprises (lagged by one year) (NONSTATE)

As discussed, many non-state enterprises do not sign any labor contracts with their employees. It may be more difficult to carry out the agenda of labor contracting if a region has more non-state enterprises. China's National Bureau of Statistics has these data and they can be obtained in the CEIC database. In the model, the variable is cube-transformed because of its left-skewed distribution.

6) GDP Per Capita (lagged by one year) (GDPPER)

My model also takes into consideration the effect of provincial level of development. Higher-level economic development decreases the difficulties of regulating the labor market. I use the lagged provincial GDP per capita to control for this potential effect. The data are retrieved from China Data Online (*Zhongguo Shuju Zaixian*), and the variable is log-transformed due to the left skewness.

7) Registered urban unemployment rate (lagged by one year) (UNEMPLOY)

A region's regulation of the labor market may also be affected by its degree of unemployment. If the unemployment rate is high, the government may be less

interested in rigidifying the labor market regulation because creating jobs for the unemployed is the priority. While the variable is not my main interest, I include it as a control in the model.

8) The percentage of urban employees (lagged by one year) (URBAN)

The share of urban employment refers to how many workers are in the urban labor market compared to the rural one. As the promotion of labor contracting in the 2000s mainly focuses on regulating the urban labor market, the variable is important to be included in my model. Its interpretation is mixed, however. When urban labor market is larger in a region, the local government may focus more on developing a sound labor market through enforcing the rules about labor contracting. But it may also be less willing to implement the labor contract system to regulate the urban labor market if potential unemployment is expected. The data about urban employment are recorded by the MOLSS and can be retrieved from the CEIC database. The variable is log-transformed in my model.

9) The share of employment in the secondary industry (lagged by one year)

(SECONDARY)

In general, the secondary industry has the lowest labor contracting rate. But the interpretation of this variable is also mixed. If a region's employment in the secondary industry is higher, the task of promoting labor contracting will be harder. But if more workers are in the sector, the local government may have more pressure to develop a sound labor market. The original data of the variable are also recorded by the MOLSS

and can be obtained from the CEIC database. The data are log-transformed to create this variable, given its skewed distribution to the left.

In addition, I also include variables to control for the potential effects of time and section for my panel data. First, I use the size of regional area (AREA) as a regional indicator. The task of regulating the labor market is supposed to be more demanding if the area of the region is larger. The variable is skewed toward the left so is log-transformed. Second, I also include year dummy in my model (year 2008 is omitted). As for LABORC and SECREC, namely the career prospects of Labor Department Directors and Provincial Party Secretaries, because the two variables are both three-categorized at low, medium, and high levels, I create two dummy variables for each of them, i.e. LABORC\_2, LABORC\_3, and SECREC\_2, SECREC\_3. For LABORC\_2 and LABORC\_3, the reference group is the low level of career prospects. LABORC\_2 stands for the medium level of career prospects and LABORC\_3 is the high level. Same approach is adopted to create SECREC\_2 and SECREC\_3. Table 5.2 is these variables' summary statistics.

Table 5.2 Summary statistics of variables

Variable	N	Mean	Std. Dev.	Min	Max
Dependent:					
SYNINDI	169	1.48	1.11	0	3
Independent:					
LABORC_2	169	0.46	0.50	0	1
LABORC_3	169	0.27	0.44	0	1
Control:					
SECREC_2	169	0.44	0.50	0	1
SECREC_3	169	0.26	0.44	0	1
UNREST	169	0.45	0.11	0.20	0.73
BUSINESS	169	0.30	0.11	0.08	0.56
SUBSIDY	169	0.44	0.16	0.12	0.70
NONSTATE	169	0.48	0.26	0.01	0.96
URBAN	169	-0.54	0.20	-0.94	-0.09
SECONDARY	169	-0.68	0.17	-1.02	-0.34
GDPPER	169	4.10	0.28	3.51	4.83
UNEMPLOY	169	3.74	0.82	0.80	6.50
AREA	169	5.14	0.51	3.80	6.22

### ***Regression results***

Table 5.3 reports the maximum likelihood results of an ordered logistic model estimating the effect of Labor Department Directors' career expectation on regional governments' promotion of individual labor contracting. In the first model (1) in Table 5.3, I report a regression where all the control variables are included but the variables regarding local officials' career expectation are left out. Here we see that neither the potential labor unrest nor the resistance of the business community has a significant effect on regional governments' behavior. In the second model (2) where only the interested independent variable, namely the career prospects of Labor Department Directors, and the regional and year indicators are included, consistent with my

hypothesis, Labor Department Directors' career expectation has a positive impact on regions' degree of individual labor contracting. The next model (3) reports a regression which contains all the explanatory and control variables. With these control variables, the Labor Department Directors' career expectation is still important in explaining regional implementation of individual labor contracting. Individually, LABORC\_2 and LABOR\_3 are statistically significant and we can determine from the likelihood ratio chi-square ( $\chi^2(2)=5.70$  and  $\text{Prob}>\chi^2=0.058$ ) that they are jointly significant at the 10% level, i.e., that the variable LABORC is significant. Moreover, from the model, we also see that the resistance from the business community has a significantly negative impact on individual labor contracting. When a region's economic growth relies more on the development of labor-intensive industries, with other variables held constant, it is less interested in promoting individual labor contracts.

Table 5.3 Ordered logistic model estimating the effect of Labor Department Directors' career prospects on regions' promotion of individual labor contracts

Dependent variable: Promoting individual labor contracts (synchronized) (ordered: 0, 1, 2, 3 from low to high)			
	(1)	(2)	(3)
LABORC_2		1.084 (0.379)***	1.004 (0.465)**
LABORC_3		1.222 (0.410)***	1.143 (0.521)**
SECREC_2			-0.076 (0.432)*
SECREC_3			0.157 (0.491)*
UNREST	-5.229 (3.479)		-4.640 (3.612)
BUSINESS	-4.087 (3.342)		-6.177 (3.481)*
SUBSIDY	-0.164 (2.717)		0.654 (2.806)
NONSTATE	1.108 (1.841)		1.961 (1.916)
URBAN	3.810 (2.467)		2.250 (2.600)
SECONDARY	-3.188 (2.595)		-3.661 (2.847)
GDPPER	4.344 (3.222)		5.487 (3.315)*
UNEMPLOY	-0.241 (0.241)		-0.429 (0.257)*
AREA	1.233 (0.518)**	-0.020 (0.281)*	1.137 (0.534)**
Number of obs	169	169	169
Prob > chi2	0.000	0.000	0.000
Pseudo R2	0.322	0.178	0.335

Absolute value of z-statistics in parentheses. \*\*\* refers to the significant level of 1%, \*\* refers to 5% and \* refers to 10%. All regressions include the provincial and year indicators.

In addition to individual labor contracting, organizing trade unions to promote collective collects and collective negotiation is another focus of the regulation of the labor market. The following paragraphs examine regional governments' implementation of the collective labor contract system.

From the last chapter's three case studies, we see that the standing membership of a Trade Union Federation Chairman on the province's CCP Committee was crucial to whether the region would make efforts to promote collective labor contracting. In Beijing where the chairman is a standing member (see Figure 4.3), the region invested in promoting collective contracts. In Hunan and Guangdong where the chairmen did

not enjoy such membership, the promotion of collective contracts was not a critical agenda when regulating the labor market. Accordingly, we can generate a hypothesis to test the effect of the political status of Provincial Trade Union Federation in the governing structure on the region's promotion of collective contracts.

**Hypothesis Two: The degree of regional implementation of collective labor contracting (COLLECTIVE) is higher when the Chairman of Provincial Federation of Trade Unions is a standing member on the region's CCP Committee (CONCUR).**

According to Figure 5.2, the degree of regional governments' promotion of collective labor contracting is categorical and strictly ordered. Another ordered logistic model is thus employed for this hypothesis. In the model, I control for the effects of the career expectation of Provincial Trade Union Federation Chairmen (UNIONC). Similar to Labor Department Directors, these Chairmen's expectation refers to their prospects to be promoted to higher-level positions or to stay bureaucratically stronger in the provinces, and is a function of their age, gender, minority, birth place, education, seniority in the CCP, past working experiences in the municipalities within the provinces, and past positions in the Youth League. Because the variable UNIONC is three-categorized at low, medium, and high levels, I use the low level as my reference group, and create two dummy variables, i.e. UNIONC\_2 and UNIONC\_3. UNIONC\_2 stands for the medium level of career prospects and UNIONC\_3 is the high level. In addition to this variable, the model also includes all those controls in the previous



regression (from 1) to 9)) on individual labor contracting. Table 5.4 is the summary statistics for my model on collective labor contracting.

Table 5.4 Summary statistics of variables

Variable	N	Mean	Std. Dev.	Min	Max
Dependent:					
COLLECTIVE	238	1.44	1.03	0	3
Independent:					
CONCUR	238	0.39	0.49	0	1
Control:					
UNIONC_2	238	0.33	0.47	0	1
UNIONC_3	238	0.37	0.48	0	1
SECREC_2	238	0.46	0.50	0	1
SECREC_3	238	0.27	0.45	0	1
UNREST	238	0.45	0.11	0.17	0.73
BUSINESS	238	0.29	0.11	0.08	0.56
SUBSIDY	238	0.45	0.16	0.12	0.86
NONSTATE	238	0.54	0.25	0.02	0.97
URBAN	238	-1.30	0.46	-2.16	-0.21
SECONDARY	238	-1.61	0.43	-2.78	-0.78
GDPPER	238	9.34	0.63	7.89	11.13
UNEMPLOY	238	3.76	0.75	0.80	6.50
AREA	238	12.01	1.23	8.75	14.32

### ***Regression results***

Table 5.5 reports the ordered logistic regression results on the effect of Trade Union Federation's political status on the degree of collective labor contract promotion. Model (2) and (3) both tell us that whether a Trade Union Federation Chairman is a standing member on the Provincial CCP Committee has an important impact on the region's attitude to collective contracting. On the other hand, in both of these two

regressions, because UNION\_3 is significant but UNIONC\_2 is not, we see that compared to the low level (i.e. the reference group), when union chairmen's career prospects are in the high level, provincial governments tend to invest in regulating collective labor contracts. But when union officials' career expectation is in the medium level, compared to the low level, the argument for its effects on regional performance is not confirmed. The three regressions in Table 5.5 all indicate that the implementation of the collective labor contract system is highly impeded by the resistance of the business community. When a region's economic growth relies more on labor-intensive industries, the degree of collective contracting is lower.

Table 5.5 Ordered logistic regression estimating the effect of Trade Union Federation's political status on the annual promotion of the collective labor contract system

Dependent variable: Promoting the collective contract system (ordered: 0, 1, 2, 3 from low to high)			
	(1)	(2)	(3)
CONCUR		1.635 (0.292)***	1.281 (0.358)***
UNIONC_2		0.253 (0.327)	0.403 (0.381)
UNIONC_3		0.652 (0.334)**	0.718 (0.397)*
SECREC_2			0.062 (0.345)
SECREC_3			0.622 (0.412)
UNREST	-3.905 (2.548)		-2.819 (2.879)
BUSINESS	-7.881 (2.269)***		-6.589 (2.359)***
SUBSIDY	0.860 (1.987)		1.744 (2.076)
NONSTATE	-2.847 (1.493)*		-3.600 (1.604)**
URBAN	-0.794 (0.709)		-1.415 (0.758)*
SECONDARY	0.988 (0.716)		0.628 (0.738)
GDPPER	1.591 (0.789)**		2.062 (0.809)**
UNEMPLOY	0.495 (0.202)**		0.276 (0.221)
AREA	-0.141 (0.155)	0.017 (0.104)	-0.147 (0.160)
Number of obs	238	238	238
Prob > chi2	0.000	0.000	0.000
Pseudo R2	0.213	0.149	0.255

Absolute value of z-statistics in parentheses. \*\*\* refers to the significant level of 1%, \*\* refers to 5% and \* refers to 10%. All regressions include the provincial and year indicators.

## *Discussion*

Both the models on regional regulation of individual and collective labor contracts show that neither of them are sensitive to potential labor unrest. Local officials in general pay more attention to the business community and are willing to compromise with them if labor-intensive industries are important to the regions' economic growth. But Table 5.4 also reveals that when Labor Department Directors have strong political incentives, their action is less determined by the business community, and labor-intensive industries are not successful in blocking the pro-labor policy. In order to gain more political or bureaucratic power, Labor Department Directors tend to make efforts to regulate individual labor contracting. In this situation, Labor Department Directors act as a bureaucratic representative for workers, although the major motivation behind this action is not to protect workers' rights.

On the other hand, the situation of promoting collective contracting is more complicated. From Table 5.5 we know that Trade Union Federation Chairmen's career expectation is not a satisfying answer to the regional variation of collective labor contracting. But a local government's performance is deeply influenced by the political status of the Trade Union Federation in the region's leadership structure. If a Chairman is not granted the standing membership on the Provincial CCP Committee, promoting collective contracts is not likely to be included on the government's labor regulation agenda. This shows that the promotion of collective contracting is related to the political status of the Trade Union, but not to the individual Chairman's political incentive for promotion. One of the possible explanations about why union officials with a medium level of career expectation do not necessarily invest in collective

contracting resides in the fact that many Union Chairmen are already very senior in the Chinese government, and they can make use of their own political connections for promotion rather than rely on the performance regarding labor issues. Moreover, unlike Labor Department Directors, many Union Chairmen are already old in office, and for them, there is actually not much chance of getting more political power through promotion or staying bureaucratically stronger in the current position. As Table 5.1 indicates, the average age of Union Chairmen is 56 years old. As one term is usually five years and the retirement age is at 60 years old, many Union Chairmen are going to leave the office soon and hence do not devote themselves in regulating the labor market. Only when they have the highest degree of career expectation, as represented in the variable of UNIONC\_3 in Table 5.5, will Union Chairmen make efforts to implement the collective contract system.

Based on the above discussion, we find that under the cadre management system, the central government's political control is likely to drive local labor officials to follow its reform direction. When deciding whether and how to implement the central government's agenda, Chinese local officials with strong incentives for promotion will calculate the effects of complying with the new policy on their political career. In the 2000s, when the pro-labor reform is launched, local labor officials need to take into consideration cooperating with the central government on regulating the labor market if they have high expectations for their political future. Promoting the reform is a costly policy for regional governments, because the implementation may incur resistance from the business community. It thus serves as a signal to the central

government of regional officials' loyalty and competence in complying with the new agenda.

However, from these two sets of models, the chapter also finds that top provincial leaders, namely provincial party secretaries, do not see the task of regulating the labor market helpful for their career promotion. In Table 5.5 on collective contracting, neither SECREC\_2 nor SECREC\_3 is statistically significant. This reveals that in provincial party secretaries' minds, promoting the collective labor contract system is not critical for promotion. As for regulating individual labor contracts, the impact of provincial party secretaries' career prospect varies according to the level of their promotion expectation. As shown in Table 5.3, compared to provincial leaders whose career expectation is at the low level, those with a high-level career expectation tend to more rigidly regulate the process of individual labor contracting. But compared to those with a low level of career prospects, those in the medium level make less effort to promote individual labor contracting. According to these results, we see that provincial party secretaries' career expectation does not always have positive impacts on the performance of regulating individual labor contracts.

Regional leaders' indifference and ambiguous attitudes to regulating the labor market sheds light on the fact that while the central pro-labor reform has been launched, most provincial party secretaries do not find that cooperating with the agenda will be helpful for their political promotion. This is because in China, the evaluation of provincial party secretaries still largely depends on provinces' economic performance. Only after 2008 are there some regional leaders such as Wang Yang in

Guangdong as discussed in the last chapter, interested in regulating the labor market. Top regional leaders with lofty political aspirations generally do not rely on labor policy implementation for promotion. As the implementation of labor market regulations is in the hands of the Labor Department and the Trade Union Federation, the regional performance is mainly determined by these labor officials' action. In the 2000s, local labor officials with ambition for more political or bureaucratic power tend to make use of the cooperation with the central government on the pro-labor reform to achieve this goal.

#### **5.4 Conclusion**

Based on the ordered logistic regression on individual contracting, this chapter finds that Labor Department Directors' attitudes are critical to provinces' performance in regulating individual labor contracts. These attitudes are a function of their calculation about the future career. When labor officials have higher chances of career promotion, they tend to make use of the task of regulating the labor market to gain more bureaucratic power or to enhance their promotion opportunity. When this happens, we say that there is socio-bureaucratic synergy between labor officials and workers in the process of promoting pro-labor policies. The first hypothesis, generated from my diverse case studies in the last chapter, is confirmed.

At the same time, the large-N study on collective contracting also supports the finding of the last chapter that the political status of the Trade Union Federation in the regional leadership structure has a great impact on whether the promotion of collective

labor contract system is put on the region's regulation agenda. But the effect of Union Chairmen's political incentive is ambiguous. This is because most Union Chairmen rely less on labor policy implementation for promotion. Similar logic is applied to provincial party secretaries' behavior. While local labor officials may have expectations for political promotion through implementing the central government's pro-labor reform, for provincial top leaders, promoting economic growth is still the focus. Hence, we do not see a positive impact of provincial party secretaries' career aspirations on regulating the labor market in both sets of models.

## **Chapter Six**

### **Conclusion**

This dissertation examines China's labor policy changes from the 1980s to the 2000s. I find that these reforms are largely determined by the incentive of some political elites, mainly central bureaucrats and local officials, to gain more bureaucratic or political power. My study illustrates a top-down decision making style. In China, the policy-making is not driven by societal actors' pressure, but by bureaucracies' use of social forces to enhance their political status.

In the 1980s, the labor contract system was introduced to flexibilize the iron-rice-bowl system in the state sector. The government first experimented with the reform in some localities before its nationwide implementation. In the process, many experimental regulations were announced. Local experiments were concluded in the 1994 Labor Law. This gradualist policy-making style was proven to be successful. While at the beginning, the reform encountered SOE managers' and workers' resistance, it was kept going on and facilitated by other labor policy changes including wage and welfare reforms under the agenda of SOE restructuring. This gave new impetus for local governments to transform fixed workers into contract ones. Since the mid-1990s, the number of state workers on contracts significantly increased. The goal of deregulating the workforce in the state sector was able to achieve.

The second part of the dissertation investigates how the policy of regulating the non-state labor market was initiated in the 2000s. Why did a country whose



economic growth was widely thought of as being fostered by labor-intensive manufacturing industries make rigid employment regulations, given that there was no formal representation of the working class in the political system? Contrary to the usual view which claims that threats of revolution and concerns about regime transition compel autocrats to appeal to the socially disadvantaged for support, my explanation focuses on the dynamics of how labor officials in the government made use of workers' grievances to secure or enhance their bureaucratic power. In the 2000s, the policy reform to protect workers' rights centered its efforts around promoting inside and skilled workers' job security. Outsider groups' employment opportunity was largely ignored. Through a positive and negative case analysis of the political leverages of laborers and managers in the process, I find that inside workers' grievances were more powerful in directing the reform, because there were some bureaucracies seeing that it was in their interests to act on behalf of inside workers' voices.

This dissertation proposes a concept of “socio-bureaucratic synergy” to trace the internal politics within the state structure and how different state actors interact with social forces in the labor policy reform process. Unlike “state-society synergy” discussed by Evans (1997), socio-bureaucratic synergy does not treat the state as a unitary actor when facing social pressures. Rather, I argue that only some bureaucracies in the state, and not the state as a whole, can successfully link themselves to some societal actors and put forward these officials' desired reform agenda. As Chapter Three on reform in the 2000s illustrates, the expansion of labor rights under the contract system from state to non-state workers was a direct result of

the desire of two bureaucracies, namely the Ministry of Labor and Social Security and the All China Federation of Trade Unions, to take the opportunity to regain their power that had been relinquished under marketization since the 1980s. When these labor officials wished for the same policy outcome as inside workers and successfully put this policy on the government's agenda, we say that there was socio-bureaucratic synergy between the two.

When it came to implementation, some regional governments invested more in carrying out the pro-labor reform than others. This local variation provides an example to examine the incentive of local officials in the local labor policy-making. Based on three case studies, this dissertation finds that local implementation of the pro-labor reform primarily depended on the calculation of regional Labor Department Directors and Trade Union Federation Chairmen about their career prospects. In Beijing, when local labor officials had better chances to be promoted to the central level, constantly drafting rigid labor regulations served as a signal to the central government that they were loyal and competent, because reform was always a costly policy. In Hunan, when the chance was low, labor officials who was not going to retire soon would be interested in implementing the central reform in a way that helped enhance his bureaucratic power in the regional government. But a labor official might choose to speak for the business community and delay the implementation of the pro-labor reform when he had no bright future for more political or bureaucratic power, as the Guangdong case indicates. These results are generally confirmed by my large-N study in Chapter Five on 31 provincial-level regions from 2001-2008.

Methodologically, I employ both qualitative and quantitative evidence based on government documents and in-depth interviews to analyze the regional variation of labor policy-making. In political science, mixing qualitative and quantitative methods has been increasingly popular. In studying Chinese politics, while small-N research is still the most common choice in the field, many scholars have also utilized “mixed methods” in their projects. Perhaps the most prevalent attempts to combine the two kinds of methodology is to integrate survey and fieldwork methods. Surveys are thought to be able to contribute to fieldwork with respect to the generalizability of results, and qualitative methods can aid survey work through the identification of omitted variables (Tarrow 1995). In China studies, many quantitative-oriented researchers also incorporate surveys in exploring issues ranging from private entrepreneurs' political attitudes (e.g. Chen and Dickson 2008; Chen and Dickson 2010) to grass-roots officials' career patterns (e.g. Walder 1995; Walder, Li, and Treiman 2000; Zhou 1995; Zhou 2001). These studies have facilitated our understanding of the behavior of Chinese societal actors and lower-level officials.

What if our research is targeted at higher-level political elites? Apparently survey methods are not very suitable for this type of study. My analysis on labor policy-making provides an example to illustrate the ways in which multiple methods are combined in studying Chinese “high politics.” First, I employ a diverse-case-selection strategy (Gerring 2006, 97-101) to conduct three case studies on the patterns of Beijing's, Hunan's and Guangdong's regulation of their labor markets. I find that the provincial labor officials are likely to implement the pro-labor reform when they see implementing the central policy beneficial to their political careers. Second, based on

these case studies, the dissertation generates two hypotheses regarding the effects of regional officials' political aspirations on their attitudes to improving the labor condition. To test these hypotheses, I code the records in regional governments' official yearbooks on their implementation of the pro-labor reform. I then synchronize it with regional regulations on labor contracts as well as regional small leading groups on labor contracting to construct an index of labor market rigidity to measure the degree of local implementation of the pro-labor reform in all 31 Chinese provincial-level regions from 2001-2008. For the explanatory variable, I collect the political resumes of regional Labor Department Directors and Trade Union Federation Chairmen to group their career prospects into several degrees. My ordered logistic regressions show that local labor officials tend to make efforts to build a rigid labor regulatory regime when they have high career prospects. This is the first systemic study in the field on Chinese regional labor officials' career and its role in the local policy-making process.

This conclusion shows that while societal actors have become more visible in the 2000s, the policy-making is still largely in the hands of political elites. Whether a social voice is influential in directing the policy outcome depends on government officials' incentive to enhance their bureaucratic status or to gain more political power. This finding echoes the state-centric approach in the political economy of reform literature, but provides a more subtle analysis of the internal politics within the state.

In the China field, the elite-centric policy-making is well examined under the framework of fragmented authoritarianism (Lieberthal and Oksenberg 1988; Lieberthal and Lampton 1992). For these studies, policy-making in China is driven by

bargaining among different ministries. However, right after the framework is proposed, China's deepened marketization has raised considerable challenges to state-centric studies. As Saich indicates, the market-oriented reform has created spaces for the expansion of social organizations (2000). Under this trend, many researchers switch their focus to social dynamism. Behind these studies is the intellectual inquiry about the strength of China's social actors and how they participate in Chinese politics. For example, scholars have investigated how different kinds of environmental NGOs, including registered NGOs, student environmental associations and web-based groups, mobilize resources in China's environmental politics (G. Yang 2007). The existence of the NGOs enables Chinese citizens to practice political skills and even “to test political limits” (G. Yang 2005, 65). As Young indicates, NGOs facilitate the democratic value of civic participation and open up the channels for citizens to participate directly in political processes (Ibid., 66).

Unlike environmental NGOs, labor NGOs in China are much less able to have a say in the policy-making. Most labor NGOs are service-oriented, primarily engaging in legal advising and training (Friedman and Lee 2010). Workers do not participate in the political process through labor NGOs. In fact, while Chinese workers' legal consciousness is not low, given that sometimes they use the law as their weapon to fight against managers (Gallagher 2005) or to accuse local officials of acting “against the law” (C. Lee 2007), they do not have high democratic values of political participation. As Stockmann and Gallagher point out, when Chinese citizens are exposed to media reporting about labor law-related issues, they tend to choose to participate in the legal system, rather than to ask for political rights, because the media

help portray the legal system in an overly pro-labor way (Stockmann and Gallagher 2011).

While many Chinese workers seek legal services to settle their grievances, some of them still participate in the policy-making process through organizing labor protests or attending public hearings. In the literature on Chinese workers' relationship with the state, most studies focus on the effectiveness of workers' collective actions in changing the state's action. Sometimes, when a laborer bypasses the court and directly presents her grievances on the street, local courts may respond to the protest positively by taking the initiative to collect evidence (Su and He 2009). In addition to contentious collective actions, social actors can participate in the policy-making through public hearings. According to the Law-making Law (*lifa fa*) promulgated in 2000, forums, seminars and hearings should be held when a legislative bill is placed on the agenda of the NPC Standing Committee (Article 34). Moreover, public opinions may also be included when a draft of legislation is published for feedback as discussed in Chapter Three with regard to the making of the 2007 LCL. This practice is called collecting social opinions for legislation before a law's promulgation, namely *kaimen lifa* in Chinese. Some other previously-excluded social actors such as legal experts are also likely to be part of the policy-making if decision makers consult with them before a policy is made.

These new channels go beyond the “enlisted involvement in coproduction” in a Leninist regime, aiming to block the growth of participatory pressures (Roeder 1989). In the current China, societal actors are allowed to participate in the policy-making process through one of the mechanisms. Given that the state-society relation is no

longer repressive in today's China, a popular framework is to emphasize that the state and the society are mutually constituted and conditioned (Shue 1990; Shue 1994; Foster 2001). As a growing body of literature have devoted its attention to the study of societal actors in China, most researchers seem to agree on the reason why social voices are able to participate in the process. The answer is either the rapid socioeconomic change, or top leaders' concern about regime stability. For the former, as Mertha points out, social actors' entry into the political process results from the agency slack of the state (Mertha 2009). The existing institutions are unable to adapt sufficiently to the complicated situation in the reform era, and the government does not have the knowledge to deal with many new problems and hence needs to listen to experts or even societal groups directly. On the other hand, many political observers refer to the concern about regime stability to explain why participatory channels are opened up and why the CCP is building intra-party democracy (*dangnei minzhu*).

These answers may all be correct in illustrating China's pluralizing political process. However, even when previously-excluded social actors are now allowed to participate in the politics, this does not amount to the fact that they have the ability to direct policy-making. As Gilley points out, social organizations' freedom was granted by the state and there is very limited tolerance for policy conflicts (2011, 525). Without fundamental changes of the political system, the regime is very much resilient and adaptive (Nathan 2003). As Chapter One indicates, while media freedom is granted to some degree, the state still hold the power to sweep away issues that are considered sensitive to the regime. So, the state is still the critical actor in defining state-society relationships (Gilley 2011). These channels open rooms for citizens'

“enlisted participation” (Hsu 2011), but there is very low possibility for citizens to change policy directions.

In most cases, China's policy-making is still dominated by a small set of political elites. As this dissertation argues, the labor policy-making is directly influenced by the self interests of Chinese bureaucracies. Social voices are included when these bureaucrats see that doing this is helpful for achieving their political goals. My conclusion calls for a revisit of the state-centric approach to Chinese politics. As Gilley tells us, the literature on Chinese societal actors “has succeeded in showing when and how state dominance in China has been compromised, but in doing so it has also underlined the resilience of state dominance itself” (2011, 530). My study reveals that there is a need to examine the internal politics within the state apparatus and how different state actors make use of various social forces in the policy-making process.

My conclusion is somehow provocative, in the sense that it argues that, although the thirty years of reform have pluralized China's political arena, social voices do not enjoy systematic power in the policy-making process. In order to know whether this research perspective captures China's general policy-making structure, the next step of study is to extend the argument to other policies. First, in addition to the promotion of labor contracting, is my conclusion applicable to other labor policy changes such as the reform of the household registration system (*hukou*)? In the State Council, while the MOLSS somehow supports the *hukou* deregulation although it is not the MOLSS's major agenda, the Ministry of Public Security is constantly a strong opponent of liberalization. Loosening the regulations of geographical mobility will increase the cost of maintaining the social order, and thus is against the Ministry's



interest. Employing my framework, a possible explanation is proposed as follows. The speed and magnitude of the *hukou* deregulation is determined by whether the MOLSS ardently advocates the reform as well as by how the MOLSS interacts with the Ministry of Public Security. The lack of a strong bureaucracy acting on behalf of migrant workers may lead to a delay in the reform of labor mobility regulations in China.

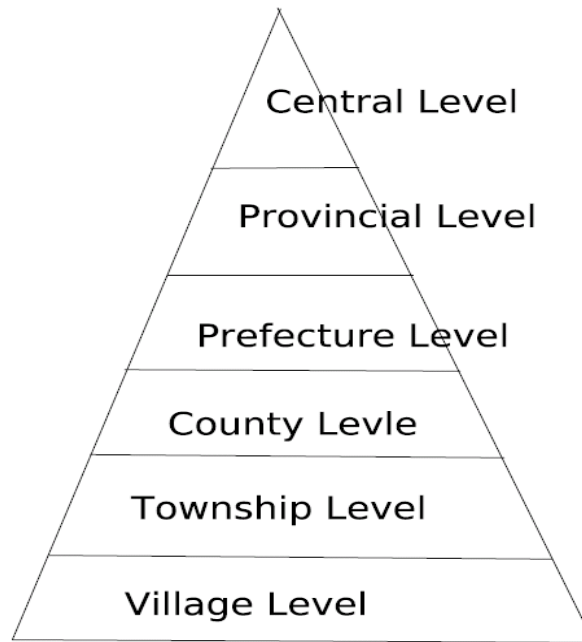
Second, if we want to make the argument proposed in this dissertation a generalized claim about China's policy-making, it is also essential to examine other policy areas outside the labor reform. In his work on the FA 2.0 framework, Mertha uses a crucial case, namely the debate over child safety regulations regarding China's trade policy, to generalize his argument that social actors can have significant impacts on policy outcomes if they frame their grievances in a way to enlarge their audience (2009). The logic of crucial case is to look for cases where the outcome is least likely to happen. If the outcome still takes place, we will have more confidence in our argument (Lijphart 1971; Gerring 2007, 115-122). For future studies, this method will also be useful to test my theory in other policy areas.

To decide which cases to be included to examine whether China's policy-making structure is now open to societal actors, we should develop some criteria for cross-policy comparison (Tung, Chou, Hsu, and Wang 2011). For example, if for a certain policy, the original policy preference of the Chinese government and that of societal actors does not conflict, the case will not be very crucial, because for the Chinese government, it never hurts to integrate social voices into the policy-making, given that both of them wish for the same policy outcome. As this dissertation finds,

non-state workers and some Chinese political elites, including the MOLSS, the ACFTU, and local labor officials with high degrees of career prospect, do not have conflicting preferences with regard to the regulation of the labor market in the 2000s. Workers' voices are thus easy to be incorporated into the labor policy reform. The policy-making is still a top-down process. My examination on China's internal politics in the labor policy reform provides a basis for future cross-policy comparison in the study of China's policy-making.

## APPENDIX

### Appendix 4.1 Administrative Rank of the People's Republic of China



#### Notes:

1. Central-level governments include the National People's Congress, Presidency, State Council, Central Military Commission, Supreme People's Court, and the Supreme People's Procuratorate<sup>164</sup>
2. Provincial-level regions include Province, Direct-controlled Municipality, Autonomous Region, and Special Administrative Region (Hong Kong and Macao)
3. Prefecture-level regions include Prefecture (*diqu*), Prefecture-level Municipality (*dijishi*), Sub-provincial city (*fushengji chengshi*), Autonomous prefecture (*zizhizhou*), and League (*meng* in Inner Mongolia)
4. County-level regions include County (*xian*), County-level City (*xianjishi*), Sub-prefecture-level City (*fudijishi*), City Districts (*shixiaqu*, including Districts in a Direct-controlled Municipality), Autonomous County (*zizhixian*), and Banner (*qi* in Inner Mongolia)
5. Township-level regions include Town (*zhen*), Township (*xiang*), Street or Subdistrict (*jiedao* in a City District), and Sumu (in Inner Mongolia)
6. Village (*cun*)<sup>165</sup>

<sup>164</sup> See the official website of the Central Government of the PRC. [http://www.gov.cn/gjjg/2005-08/28/content\\_27083.htm](http://www.gov.cn/gjjg/2005-08/28/content_27083.htm)

<sup>165</sup> In China, villages are not listed as an official rank in the administrative structure.

## Appendix 4.2 Issues for Measuring the Rigidity of Provincial Regulations on Labor Contracts

Category	Sub-category	Content	Marks	Points
Number of articles		60-69		1.5
		50-59		1.0
		40-49		0.5
		30-39		0.0
Non-fixed term labor contracts	Who are eligible for non-fixed contracts	An worker works consecutively for an employer for 10 years	aa	2.0
		Others who are eligible for non-fixed term labor contracts	bb	3.0
		When an worker is eligible for a non-fixed term labor contract, even if the procedures relating to the signing of the contract have not been gone through, it shall be regarded that the worker has a non-fixed term contract.	cc	1.0
		Restrictions on the eligibility of non-fixed term labor contracts	ee	-1.0
	Restrictions on non-fixed term contracts	A non-fixed term labor contract shall include conditions under which the contract is to be terminated.	dd	-1.0
		No rules on non-fixed term labor contracts		0.0
Renewal of labor contracts	Who are eligible for renewal	Where a labor contract expires and the labor relationship between an employer and an worker still exists even if the procedures relating to the termination of the contract have not been gone through, it shall be regarded as a renewal of the labor contract.	A	1.0
		When a labor contract ends, if the employer and the worker can still fulfill the requirements in the original contract, the contract shall be renewed.	V	0.5
		Where an worker contracts occupational diseases or a work-related injury that is proved to well fit into one of the disability categories, his employer shall renew the labor contract.	D	1.0
	Renewal procedure	An employer shall, 30 days prior to the expiration of a labor contract, notify the worker in writing of its intention to terminate or renew the labor contract and go through the formalities related to he termination or renewal of labor contract through consultation.	F	1.0
		When an employer and an worker agree to renew the labor contract, the procedures relating to the signing of the contract shall be conducted before the original contract ends.	G	0.5
		When an employer or a worker intends to renew a labor contract, he shall notify the other party in writing, 30 days prior to the expiration of the contract, of its intention. The other party shall respond in writing, 15 days prior to the expiration of the contract. If there is no response, the contract shall not be regarded as renewed.	R	-0.5
	Content of the renewed contract	No probation shall be included in the renewed labor contract.	B	1.0
		Where an employer and an worker do not reach agreement on the term of the renewed labor contract, it shall not be less than 1 year from the date of signing.	C	1.0
		Where an employer and an worker do not reach agreement on the term of the renewed labor contract, it shall not be less than 6 months from the date of signing.	M	0.5
	Compensation	Where an employer fails to renew the labor contract after its expiration but the labor relationship still exists, it shall compensate the worker.	E	0.5
	Fines	Where an employer violates the provisions regarding the signing, renewal, or termination of a labor contract, the department of labor and social security shall order it to make correction within a given period of time. Where it fails to do so, a fine of RMB1000 yuan or less shall be imposed.	K	0.5
		Where a labor contract expires and the labor relationship between an employer and an worker still exists, but the procedures relating to the renewal have not been gone through, the department of labor and social security shall order the employer to make correction within a given period of time. Where it fails to do so, a fine of RMB1000 yuan – RMB 10000 yuan shall be imposed.	X	0.5
Collective contract		Rules on collective labor contracts		1.0
		No rules on collective labor contracts		0.0
Trade union		Rules on the role of trade unions		1.0
		No rules on the role of trade unions		0.0

## Appendix 4.3 Rigidity of Regulations on Labor Contracts, 31 Provincial-level Regions

Region	Regulation on the labor contracting process, change, termination, and renewal	Year of promulgation	Number of articles	Points	Non-fixed term labor contract	Points	Collective contract points	Trade union points	Renewal of labor contract marks	Points	Total points
Beijing	Provisions on Labor Contracts	2001	53	1.0	bb	3.0	0.0	1.0	FBDACE	5.5	10.5
Tianjin	Provisions on Labor Contracts (Revision)	2002	45	0.5	bb	3.0	1.0	1.0	G	0.5	6.0
Hebei	Measures for Labor Contracts	2002	31	0.0	aa, dd	1.0	0.0	0.0	GA	1.5	2.5
Shanxi	Missing										
Inner Mongolia	Provisions on Labor Contracts	2003	34	0.0	0	0.0	0.0	1.0	BGA	2.5	3.5
Liaoning	Provisions on Labor Contracts	2004	36	0.0	bb	3.0	0.0	1.0	FDAM	3.5	7.5
Jilin	Measures for Labor Contracts	1997	32	0.0	aa, dd	1.0	0.0	1.0	GJK	1.0	3.0
Heilongjiang	Provisions on Labor Contracts	1998	46	0.5	bb, dd	2.0	0.0	1.0	BFA	3.0	6.5
Shanghai	Ordinance on Labor contracts	2001	62	1.5	0	0.0	0.0	1.0	B	1.0	3.5
Jiangsu	Ordinance on Labor contracts	2003	63	1.5	0	0.0	1.0	1.0	FA	2.0	5.5
Zhejiang	Measures for Labor Contracts	2002	48	0.5	bb, dd	2.0	0.0	1.0	FBAE	4.0	7.0
Anhui	Ordinance on Labor contracts	2004	59	1.0	0	0.0	0.0	1.0	0	0.0	2.0
Fujian	Provisions on Labor Contracts (Revision)	2003	29	0.0	bb, dd	2.0	0.0	1.0	GX	1.0	4.0
Jiangxi	Implementation Plan for Overall Implementation of the Labor Contract System	1995	17	0.0	bb, dd	2.0	0.0	1.0	V	0.5	3.5
Shandong	Ordinance on Labor contracts	2001	35	0.0	0	0.0	0.0	1.0	BGA	2.5	3.5
Henan	Missing										
Hubei	Provisions on Labor Contracts	2005	51	1.0	dd	-1.0	0.0	1.0	FE	1.5	2.5
Hunan	Provisions on Labor Contracts	2003	44	0.5	aa, cc	3.0	0.0	1.0	GBE	2.0	6.5
Guangdong	Provisions on Labor Contracts (Revision)	2003	52	1.0	aa, dd, ee	0.0	1.0	1.0	0	0.0	3.0
Guangxi	Missing										
Hainan	Provisions on Labor Contracts	1996	52	1.0	aa, dd	1.0	1.0	1.0	E	0.5	4.5
Chongqing	Provisions on Labor Contracts	1994	25	0.0	aa, dd	1.0	0.0	1.0	0	0.0	2.0
Sichuan	Implementation Opinions of Several Issues Concerning Implementing the Labor Law*	1996	57	1.0	bb	3.0	1.0	1.0	0	0.0	6.0
Guizhou	Opinions of Overall Implementation of the Labor Contract System**	1995		0.0	aa	2.0	1.0	0.0	0	0.0	3.0
Yunnan	Ordinance of Protecting Labor Rights	2005	48	0.5	0	0.0	1.0	1.0	BE	1.5	4.0
Tibet	Missing										
Shaanxi	Interim Provisions on Labor Contracts***	1996	46	0.5	0	0.0	0.0	1.0	AK	1.5	3.0
Gansu	Provisions on Labor Contracts	1990	56	1.0	aa, dd	1.0	0.0	1.0	K	0.5	3.5
Qinghai	Opinions of Further Regulating Labor Contracts and Labor Relations	2001	13	0.0	0	0.0	0.0	0.0	AF	2.0	2.0
Ningxia	Ordinance on Labor contracts	2005	57	1.0	0	0.0	0.0		GAF	2.5	3.5
Xinjiang	Measures for Labor Contracts (Revision)	2003	32	0.0	bb, dd	2.0	0.0	1.0	FACD	4.0	7.0

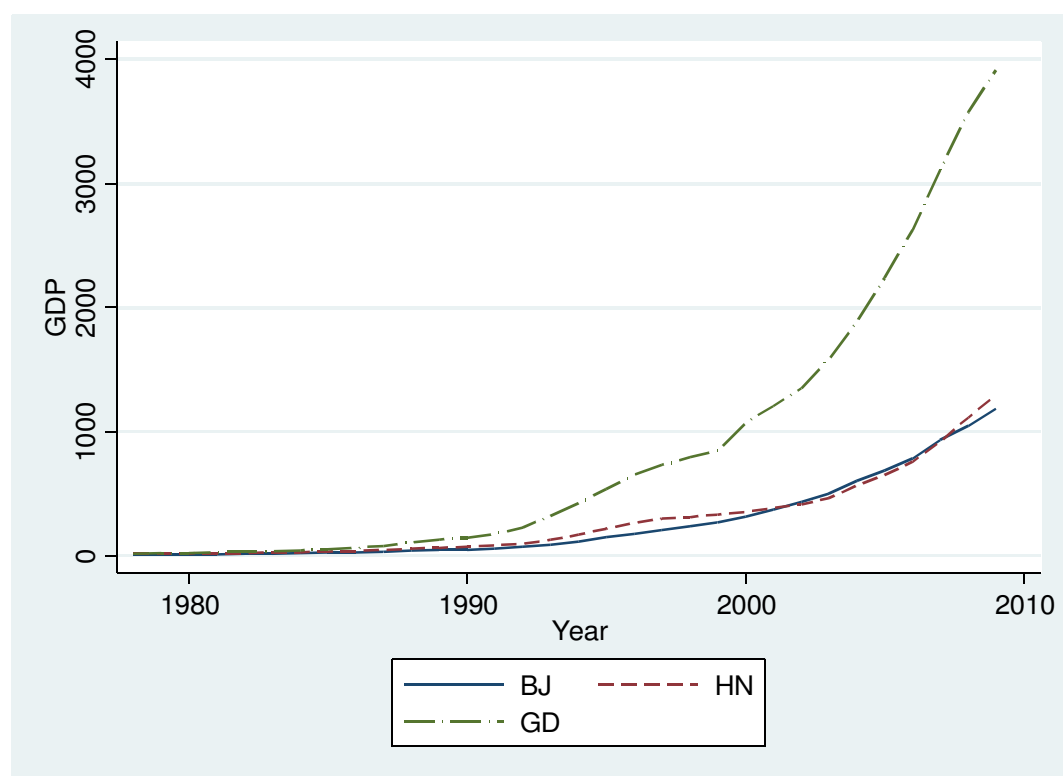
Note: \*No rules on change and renewal of a labor contract.

\*\*No rules on labor contracting process, termination, and renew. Only rules on change of a labor contract.

\*\*\*Invalidated

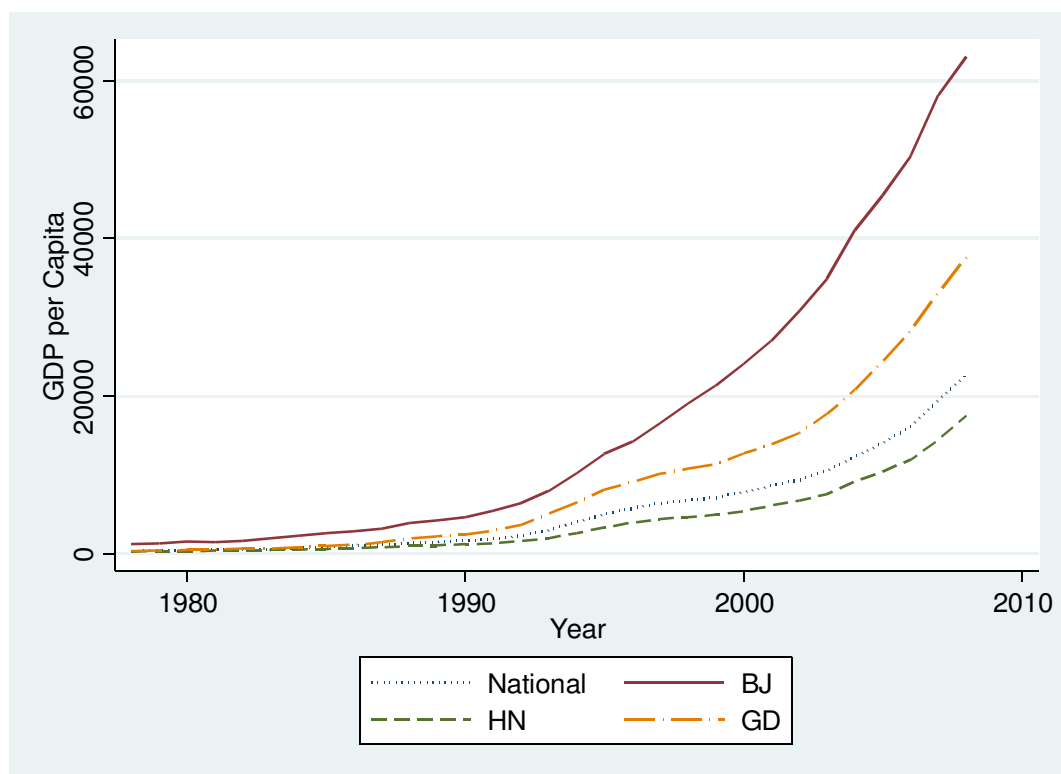
Source: Author's database.

Appendix 4.4 GDP of BJ, HN, and GD, 1978-2009. Unit: RMB Billion



Note: BJ refers to Beijing, HN refers to Hunan, and GD refers to Guangdong.  
Source: National Bureau of Statistics of China, CEIC China Premium Database  
(*Zhongguo jingji shujuku*)

Appendix 4.5 GDP per Capita of BJ, HN, and GD, 1978-2008. Unit: RMB



Source: National Bureau of Statistics of China, CEIC China Premium Database  
(*Zhongguo jingji shujuku*)

#### Appendix 4.6 Differences among Provincial-level Regulations on Labor Contracts

		National Labor Law (LL)	Beijing Provisions on Labor Contracts	Hunan Provisions on Labor Contracts	Guangdong Provisions on Labor Contracts (Revision)	National Labor Contract Law (LCL)
Year of promulgation		1994	2001	2003	2003	2007
Number of articles		107	53	44	52	98
Non-fixed term labor contracts	An worker works consecutively for an employer for 10 years	√	√	√	√	√
	An worker has been given two fixed term contracts consecutively					√
	Others who are eligible for non-fixed term labor contracts		√			√
	When an worker is eligible for a non-fixed term labor contract, even if the procedures relating to the signing of the contract have not been gone through, it shall be regarded that the worker has a non-fixed term contract.			√		
	A non-fixed term labor contract shall include conditions under which the contract is to be terminated.				√	
	Restrictions on non-fixed term labor contracts				Non-fixed term contracts are usually concluded with workers in regular technological positions.	
Renewal of labor contracts	Where a labor contract expires and the labor relationship between an employer and an worker still exists even if the procedures relating to the termination of the contract have not been gone through, it shall be regarded as a renewal of the labor contract.		√			
	Where an employer fails to renew the labor contract after its expiration but the labor relationship still exists, it shall compensate the worker.		√	√		
	Where an worker contracts occupational diseases or a work-related injury that is proved to well fit into one of the disability categories, his employer shall renew the labor contract.		√			
	An employer shall, 30 days prior to the expiration of a labor contract, notify the worker in writing of its intention to terminate or renew the labor contract and go through the formalities related to the termination or renewal of labor contract through consultation.		√			
	When an employer and an worker agree to renew the labor contract, the procedures relating to the signing of the contract shall be conducted before the original contract ends.			√		
	No probation shall be included in the renewed labor contract.		√	√		
	Where an employer and an worker do not reach agreement on the term of the renewed labor contract, it shall not be less than one year from the date of signing.		√			
Rules on collective labor contracts		√			√	√
Rules on the role of trade unions		√	√	√	√	√



#### Appendix 4.7 Differences among Provincial-level Regulations on Trade Union

		National Trade Union Law (TUL)	Beijing Measure for Implementing the TUL	Hunan Measure for Implementing the TUL	Guangdong Measure for Implementing the TUL
Year of promulgation		2001	2002	2003	2004
Number of articles		57	66	33	33
Organizing trade unions	How long a union shall be organized since the enterprise is established?	Not specified	Six months	One year	Six months
Dismissal of workers	Firm-level unions shall be notified when a worker's contract is terminated without negotiation with him.	√	√	√ and the employee shall be notified within seven days.	√
Trade union fee	Punishment, if an enterprise fails to submit fees to the trade union	Not specified	The fee shall be paid to the union by 15th every month. If an enterprise fails to do so, the penalty is 5% of the outstanding balance.	Not specified	Not specified
Bankruptcy	SOE's bankruptcy scheme shall be submitted to representative assembly.		√		
Trade union shall recruit Labor Law Inspector.			√		

## Appendix 4.8 Provincial Small Leading Groups (SLG) of Labor Contracting

	SLG (Yes or No)	Departments that are coordinated under the SLG											
		Provincial Labor Department	Provincial Federation of Trade Unions	Provincial Enterprises Confederation	Provincial Bureau of Industry and Commerce	Provincial Finance Department	Provincial Public Security Department	Provincial Department of Civil Affairs	Provincial Department of Housing and Urban-rural Development	Provincial Department of Supervision	Provincial Commission of State-owned Assets Supervision and Administration	Provincial Commission of Transport	Provincial Bureau of Statistics
Beijing	Yes	√	√	√	√				√		√		
Tianjin	Yes	√	√	√								√	
Hebei	Yes	√	√	√	√	√	√	√	√	√			
Shanxi	Yes	√											
Inner Mongolia	Yes	√	√	√									
Liaoning	No												
Jilin	Yes	√	√	√									
Heilongjiang	No												
Shanghai	No												
Jiangsu	Yes												
Zhejiang	No												
Anhui	Yes												
Fujian	Yes	√	√	√									
Jiangxi	Yes	√	√	√									
Shandong	Yes	√	√	√									
Henan	No												
Hubei	Yes	√	√	√	√						√		√
Hunan	Yes	√	√	√	√	√	√	√	√	√			
Guangdong	Yes	√	√	√									
Guangxi	Yes	√	√	√									
Hainan	Yes	√	√	√									
Chongqing	No												
Sichuan	No												
Guizhou	No												
Yunnan	Yes	√	√	√									
Tibet	missing												
Shaanxi	No												
Gansu	No												
Qinghai	Yes	√	√	√									
Ningxia	Yes	√	√	√									
Xinjiang	Yes	√	√	√									

Appendix 4.9 The Labor Contract Signing Rates in Beijing, Hunan, and Guangdong, 2000-2005.

Year	Beijing	Hunan	Guangdong
Type of enterprises	All urban enterprises	All enterprises	All enterprises
2000	82.00% *	95.00%	85.60%
2001	83.20% *	74.00%	85.60%
2002	86.00% *	88.60%	88.60%
2003	89.00% *	90.10%	
2004	90.90% *	90.50%	84.80%
2005	91.10% *	90.50%	85.00%

Note: \* refers to the rate of labor contract renewal. The Beijing Yearbooks did not record the rate of signing labor contracts.

Source: The Yearbooks (*Nianjian*) of Beijing, Hunan, and Guangdong, 2001-2006.

#### Appendix 4.10 Capital-labor Ratio for Chinese industries, 2006

Industries	Capital-labor ratio
Leather, Furs, Down and Related Products	22.59
Clothes, Shoes and Hat Manufacture	26.46
Cultural, Educational and Sports Articles Production	28.14
Craftwork and Other Manufactures	34.52
Furniture Manufacturing	47.10
Instruments, Meters, Cultural and Office Machinery Manufacture	58.30
Metal Products	62.98
Timber Processing, Bamboo, Cane, Palm Fiber and Straw Products	66.16
Electric Machines and Apparatuses Manufacturing	66.51
Textile Industry	67.74
Ordinary Machinery Manufacturing	72.09
Non-metal Ores Mining & Dressing	74.53
Special Equipment Manufacturing	78.28
Plastic Products	81.92
Waste Resources and Old Material Recycling and Processing	84.70
Non-ferrous Metal Ores Mining & Dressing	85.56
Ferrous Metal Mining & Dressing	89.79
Coal Mining & Dressing	90.03
Smelting & Pressing of Non-ferrous Metals	93.03
Agricultural and Sideline Foods Processing	96.37
Rubber Products	97.43
Communications Equipment, Computer and Other Electronic Equipment Manufacturing	97.49
Food Production	99.42
Other Mining Industries	108.55
Printing and Record Medium Reproduction	108.58
Nonmetal Mineral Products	114.46
Transport Equipment Manufacturing	125.46
Medical and Pharmaceutical Products	141.14
Beverage Production	151.06
Papermaking and Paper Products	172.51
Raw Chemical Material & Chemical Products	196.28
Chemical Fiber	265.00
Tobacco Products Processing	343.07
Water Production and Supply	402.62
Petroleum Processing, Coking and Nuclear Fuel Processing	407.69
Fuel Gas Production and Supply	440.23
Petroleum and Natural Gas Extraction	531.39
Smelting & Pressing of Ferrous Metals	616.86
Electricity and Heating Production and Supply	1007.87

Note: Capital-labor ratio is calculated by the average balance of net fixed assets divided by the number of employees. The unit of the net value of fixed capital is 1,000 RMB.

Source: Yearly Industrial Data 2006, China Data On-line, and author's calculations.

Appendix 5.1 Provincial Performance Indicators of Promoting Individual Labor Contracting in Yearbooks, 2001-2008.

Category	Indicator	Weight
Signing individual labor contracts	How many labor contracts have been signed after the labor department's inspection?	1 point
	How much is the rate of signing labor contracts?	1 point
	How much is the rate of signing labor contracts in the non-state sector?	1 point
	How many labor contracts have been signed during this year?	1 point
	How many labor contracts have been renewed during this year?	1 point
	How many labor contracts in the non-state sector have been renewed during this year?	1 point
	How many labor contracts have been verified by the labor department?	1 point
	How many labor contracts have been invalidated by the labor department?	1 point
	How much is peasant workers' labor contract signing rate?	1 point
Labor inspection	How many reports have the government accepted from the public?	1 point
	How many reports have been adjudicated?	1 point
	How many enterprises have the labor department inspected?	1 point
Labor disputes	How many cases have been accepted by the labor dispute arbitration committee?	1 point
	How many cases have been adjudicated?	1 point
	How much is laborers' winning rate?	1 point
	How many cases concerning collective labor disputes have been accepted by the labor dispute arbitration committee?	1 point
	How many child workers have been dismissed?	1 point
Petitions ( <i>xinfang</i> and <i>shangfang</i> )	How many letters and calls are received?	1 point
	How many letters and calls have been adjudicated?	1 point
	How many people have visited the labor department for petitioning?	1 point
	How many people have collectively visited the labor department for petitioning?	1 point
Wage arrears	How many workers have demanded back their defaulted salaries?	1 point
	How many peasant workers have demanded back their defaulted salaries?	1 point
	How much is the average wage increased?	1 point
	How much is the average wage in the non-state sector?	1 point
	How many prefectures or counties have raised their minimum wage?	1 point

## Appendix 5.2 Synchronized Index of Promoting Individual Labor Contracting

Individual Index	Source	Points under the Original Individual Index	Weight
Regulations on Labor Contracts	Appendix 4.3	No regulations on labor contracts (or missing)	0 points
		Years before the promulgation of the regulations on labor contracts	0 points
		0.5 – 2.5 points	1 point
		3.0 – 5.0 points	2 points
		5.5 – 7.5 points	3 points
		8.0 – 10.5 points	4 points
Provincial Small Leading Groups (SLG) of Labor Contracting	Appendix 4.8	No SLG	0 points
		Years before the SLG is established	0 points
		3 departments are coordinated under the SLG	1 point
		More than 3 departments are under the SLG	2 points
Promoting Individual Labor Contracting in Yearbooks	Appendix 5.1	1 – 6 points	1 point
		7 – 13 points	2 points
		14 – 20 points	3 points
		21 – 26 points	4 points

### Appendix 5.3 Provincial Performance Indicators of Promoting Collective Labor Contracting in Yearbooks, 2001-2008.

Category	Indicator	Weight
Signing collective labor contracts	How many enterprises are there that have prepared collective labor contracts with their workers?	1 point
	How much is the rate of signing collective labor contracts in the non-state sector?	1 point
	How many collective labor contracts have been renewed?	1 point
	How much is peasant workers' collective labor contract signing rate?	1 point
	How many collective labor contracts have been verified by the labor department?	1 point
Organizing trade unions	How many grass-roots trade unions are established this year?	1 point
	How many non-state enterprises have established trade unions?	1 point
	How many members are included in trade unions this year?	1 point
	How many peasant workers are included in trade unions this year?	1 point
Trade union's revenue	How much is the growth rate of Provincial Trade Union Federation's revenue?	1 point
Collective negotiation	How many enterprises are there that have implemented the collective negotiation system?	1 point
	How many workers have been trained to conduct collective negotiation?	1 point
Tripartite mechanisms for coordinating labor relations	How many times have the provincial government held the tripartite mechanisms for coordinating labor relations?	1 point
	How many prefectures or counties have established tripartite mechanisms for coordinating labor relations?	1 point
Workers congress system	How many enterprises are there that have established the workers congress system?	1 point
	How many times have the workers congress convened?	1 point

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